







U. S. Dept. of State  
[155]

**MESSAGE**

FROM

**THE PRESIDENT OF THE UNITED STATES,**

TRANSMITTING

*THE CORRESPONDENCE*

BETWEEN

THE DEPARTMENT OF STATE, AND THE SPANISH MINISTER,  
RESIDING HERE,

**SHOWING THE PRESENT STATE**

OF THE

*RELATIONS BETWEEN THE TWO GOVERNMENTS.*

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MARCH 14, 1818.

Read, and referred to the Committee on Foreign Relations.

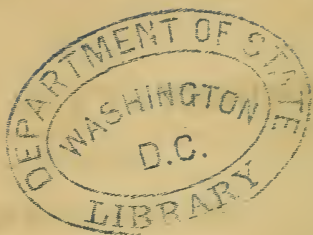
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*To the Speaker of the House of Representatives.*

In compliance with a resolution of the Senate of the 16th of December, and of the House of Representatives of the 24th of February last, I lay before Congress a report of the Secretary of State, and the papers referred to in it, respecting the negotiation with the government of Spain. To explain fully the nature of the differences between the United States and Spain, and the conduct of the parties, it has been found necessary to go back to an early epoch. The recent correspondence, with the documents accompanying it, will give a full view of the whole subject, and place the conduct of the United States, in every stage, and under every circumstance, for justice, moderation, and a firm adherence to their rights, on the high and honorable ground which it has invariably sustained.

**JAMES MONROE,**

*Washington, March 14th, 1818.*



## DEPARTMENT OF STATE.

*14th March, 1818.*

The Secretary of State, to whom have been referred the resolutions of the Senate of 16th of December, and of the House of Representatives of 24th February last, has the honor of submitting to the President the correspondence between this Department and the Spanish Minister residing here, since he received the last instructions of his government to renew the negociation, which at the time of the last communication to Congress was suspended by the insufficiency of his powers: these documents will show the present state of the relations between the two governments.

As in the remonstrance by Mr. de Onis, of the 6th of December, against the occupation by the United States of Amelia Island, he refers to a previous communication from him denouncing the expedition of Sir Gregor M'Gregor against that place, his note of 9th July, being the paper thus referred to, is added to the papers now transmitted. Its date, when compared with that of the occupation of Amelia by M'Gregor, will show that it was written ten days after that event; and the contents of his note of 6th December, will show that measures had been taken by the competent authorities of the United States to arrest M'Gregor, as soon as the unlawfulness of his proceedings within our jurisdiction had been made known to them by legal evidence, although he was beyond the reach of the process before it could be served upon his person. The tardiness of Mr. Onis' remonstrance is of itself a decisive vindication of the magistrates of the United States against any imputation of neglect to enforce the laws; for if the Spanish Minister himself had no evidence of the project of M'Gregor, sufficient to warrant him in addressing a note upon the subject to this department, until ten days after it had been accomplished, it cannot be supposed that officers whose authority to act, commenced only at the moment of the actual violation of the laws, and who could be justified only by clear and explicit evidence of the facts, in proof of such violation, should have been apprized of the necessity of their interposition in time to make it effectual, before the person accused had departed from this country.

As in the recent discussions between Mr. Onis and this Department, there is frequent reference to those of the negociation at Aranjuez, in 1805; the correspondence between the extraordinary mission of the United States at that period, and Don Pedro Cevallos, then the Minister of Foreign Affairs in Spain, will be also submitted as soon as may be, to be laid before Congress, together with the correspondence between Don Francisco Pizarro and Mr. Erving, immediately preceding the transmission of new instructions to Mr. Onis, and other correspondence of Mr. Onis with this Department, tending to complete the view of the relations between the two countries.

JOHN QUINCY ADAMS.

## MAY 1813

Dear Mother

I received your kind letter of the 10th inst. and was glad to hear from you. I am well and hope these few lines will find you the same. I have not much news to write at present. The weather is very warm here now. I have not been to school for some time. I am sorry to hear that you are not well. I hope you will get better soon. I will write again in a few days.

Your affectionate son  
John Smith

*List of papers transmitted to the President, with the report of the Secretary of State of the 14th March, 1818.*

- No. 1. Don Luis de Onis, to the Secretary of State, 9th July, 1817.
2. The same, to the same, 6th December, 1817.
3. The same, to the same, 10th December, 1817.
4. The Secretary of State, to Don Luis de Onis, 16th Dec. 1817.
5. Don Luis de Onis, to the Secretary of State, 29th Dec. 1817.
6. The same, to the same, 5th January, 1818.
7. The same, to the same, 8th January, 1818.
8. The same, to the same, 8th January, 1818.
9. The Secretary of State, to Don Luis de Onis, 16th Jan. 1818.
10. Don Luis de Onis, to the Secretary of State, 24th Jan. 1818.
11. The same, to the same, 10th February, 1818.
12. The Secretary of State, to Don Luis de Onis, 12th March, 1818.

(With enclosures A. 1, B. 2, C. 3, D. 4, E. 5.)

*Department of State, March 14th, 1818.*



## No. 1.

(Translation.)

*Don Luis de Onis, to the Secretary of State.*

SIR,

I am under the necessity of calling your attention, and that of the President, to what has occurred at Baltimore, in relation to the two privateers or pirates, which have lately entered the bay of Chesapeake, and now are within the proper limits of the state of Maryland; the one commanded by captain Taylor, and the other by captain Stafford. It is notorious, that these privateers, manned and armed in the ports of the Union, sailed on a cruise against the Spanish commerce, and have returned to the waters of Maryland with a part of the plunder and booty, they have taken on board of Spanish and Portuguese vessels.

For the due conviction of this outrage, the necessary orders or warrants were sent, at the request of the consul of his catholic majesty in Baltimore, to the marshal of that city, to proceed to the arrest of the aforesaid privateers, and for its execution, a gun boat was granted by the collector of the customs. All this, however, was in vain; the marshal gave no effect to the orders issued for this arrest; and his majesty's consul seeing that eight days had passed, without the marshal taking a single step to fulfil the orders he was charged with, called upon him, and claimed their execution; upon which he replied categorically, "that he was unwilling to proceed to the arrest of the said privateers, because it was not his duty to execute it, except they had entered the port of Baltimore; but by no means in the bay, although within the district of the state." The consul lately applied to the district attorney, complaining of this conduct; and he acknowledged, that indeed it was very extraordinary; but he took no steps to remedy it, or to enforce the observance of the laws of the United States, in a case of so scandalous an example. These facts speak for themselves, and the mere statement of them is sufficient to make you and the President thoroughly sensible of the monstrous consequences, which the irregular conduct of this marshal may lead to. It is perfectly evident, that the public treaty between Spain and the United States, and the late act of Congress, sanctioned as a general law for the more strict observance of the neutrality of the same States with foreign powers, are scandalously trampled under foot in Maryland; and that the marshal, by formally disobeying the lawful authority of the state, and that of the general government of the Union, protected the hostilities and piracies, carried on against the trade of a nation, in a state of peace and amity with the United States. I cannot, therefore, do less than to remonstrate in the name of the

king, my master, against so manifest a violation of the neutrality of this republic, of its laws, and of the treaty existing between the two powers, and to request that you will be pleased to obtain of the President the most prompt and effectual orders, to cause the marshal of Baltimore to do his duty, and all requisite justice to the subjects of his majesty.

It is my duty also to call your attention and that of the President, to the conduct of the adventurer, Sir Gregor M'Gregor, who since he was in arms with the bands of insurgents in the province of Venezuela, has come to these States, and been constantly engaged in enterprizes to invade or disturb the tranquillity of his catholic majesty's possessions in that part of the world. He lately recruited in Charleston a great number of adventurers, and among them several persons of note, viz: one Rousé, son of a colonel of that name, an inhabitant of that city; one Champion, who was a commissary in the service of the United States in the late war, and store-keeper of ordnance; one Heath, a lawyer of the same place; and many others whose names I pass over. He purchased, under a borrowed name, a brig of considerable burden, which he despatched with passengers to New Orleans, on the 19th of last month; and on the following day he went on to Savannah in the stage, according to common report, to recruit more people. His subsequent proceedings and hostile preparations in the bosom of this union, against the possessions of the Spanish monarchy, are notorious, and announced with a scandalous publicity in many papers of these States. I hope, then, that you and the President will apply the energy of your zeal, for good order and the observance of the public laws, by restraining these excesses and vexations, which compromit the neutrality, which the President has proposed to preserve in the dispute subsisting between the king, my master, and some of his provinces in rebellion, and render null, as you may imagine, the security in which the government of his catholic majesty rests, in a reliance on the safeguard of the said laws, and on that of the general principles of public good faith, which serve as the basis of the tranquillity and friendly intercourse between the nations and governments of the world.

I renew, &c.

(Signed)

LUIS DE ONIS.

*Philadelphia, 9th July, 1817,*



No. 2.

(Translation.)

*The same to the same.***SIR,**

The message of the President embraces two particular points, in the paragraph in which he announces the actual state of the political relations between Spain and the United States, of which I wish to have a precise and exact knowledge, to reconcile their true meaning with the sincerity and purity of the sentiments, of which the American government makes profession, in conformity with those which animate his catholic majesty, when he anxiously seeks all possible means of settling the differences pending between the two nations, and of strengthening his friendship and good understanding with the United States, on a basis, which, being confirmed by the most generous principles of good faith and mutual justice, may be lasting and unalterable, without leaving the seeds of discontent, or ground for fresh differences in future.

The two points I speak of, are, 1st, what relates to Amelia Island; and, 2d, what concerns Galveston.

The President announces, in respect to the first, that this island having been taken possession of by a party of people, who belong to no country, or if they have belonged to any, they have, by their conduct, forfeited all right of public consideration or toleration, they having established in the said island, a place of refuge, scandalous by its piracies, and seriously prejudicial, by a contraband trade, to the United States, chiefly in what regards the clandestine introduction of negroes into the territories of the Union, and the carrying off or flight of others from the same country, his excellency has therefore determined to put a stop to this evil and had given orders accordingly.

It is my duty to remind you, sir, that the expedition which took possession of Amelia Island, was formed and armed at Charleston and Savannah, under the command of the adventurer, Sir Gregor M'Gregor, and wholly composed of citizens of this republic, in violation of the laws of the United States, the law of nations, and the existing treaty between Spain and the said States. I denounced this expedition to you at the time, and invoked the efficacious authority of the Federal Government, to prevent it, and punish the offenders. The expedition proceeded, notwithstanding, from the limits and ports of the Union, to invade that island, and there commit the excesses on which the President touches. After M'Gregor had left Amelia Island, the district court of South Carolina issued a bench writ to apprehend him, wherever he might be found within the American territories. This writ could not certainly be issued, without a legal evi-

dence of the offence, nor could the offence be more enormous, or more notorious, in the face of the whole Union. It results from this, that there could be no just ground of converting into an act of hostility, or of public detriment to Spain, the evils which have flowed from the toleration of similar armaments in the bosom of this Union; armaments which had for their object, the invasion and plunder of the possessions of a friendly power.

I, therefore, request you, sir, to be pleased to inform me of the measures the President may have taken on this point, and of his intentions in relation to it, in order that by informing the authorities of the king, in East Florida thereof, those discontents may be avoided to which an erroneous conception may give rise, and all unfortunate impressions dissipated, which might disturb the lively and sincere desire of conciliation and perfect harmony which actuates his catholic majesty.

On the second point, relating to Galveston, the President announces, that, in that place, which it is contended falls within the limits of the United States in consequence of the acquisition of Louisiana, a number of vagrant persons had before established themselves, and committed acts of piracy very prejudicial to the trade of the United States; and that, therefore, his excellency had also taken measures to correct those abuses.

There are two things which I have to remark on this point. The first is, that the place of Galveston has not been, nor ever could be, within the limits of Louisiana; because, at no time, did it make a part of it. It has constantly belonged to the dominions of the crown of Spain, as a territory absolutely unconnected with, and distinct from Louisiana; and as such, ought to be maintained and respected, until the United States produce documents which establish their rights, and annul the titles, till now undisputed, of property and possession on the part of Spain, from the earliest times of its discovery and conquest, unto the present; and this will be determined, as there may be occasion for it, and may be just, at the time of amicably arranging the question of boundaries between the two nations, as his catholic majesty sincerely and earnestly desires, and as I have the hope to verify in a short time, in his royal name, by means of the negotiation which we have established.

The second thing which I have to recall to you, is, that the king's troops drove off from Matagorda the vagabond freebooters, who had taken possession of that point; in consequence of which the same adventurers were forced to evacuate Galveston, where they had also established themselves, so that neither of these places was afterwards attacked or infested by them or any other banditti. Moreover, if by the occupation of Galveston at that time, the United States have sustained injuries, it is notorious, that Spain has suffered much greater, by the facility afforded to the pirates in capturing Spanish vessels, carrying them into that place, and there selling them to the citizens of this Union; that from this magazine of plunder, they conveyed the Spanish property to New Orleans and other parts of the United

States, in American vessels, as is well known to you, sir, and to all the world. In any event, when the injuries reciprocally caused, to American citizens, by the government or subjects of Spain, or to the latter, by the government or citizens of the United States, are compared or estimated, such an indemnification will be stipulated, as is agreeable to justice and good faith.

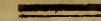
These remarks and others equally obvious, cannot fail to convince you, as I am sure they will convince the whole world, that there was not the smallest motive for proceeding to acts of violence, on either of the two points, which form the subject of this note, and on which the President has touched in his message. I hope that the intentions of his excellency will not differ from this opinion; and, as well to avoid the disagreeable consequences which might arise from a misunderstanding, as to communicate to the king, my master, the true state of things, I have to request of you, sir, as I now do, a precise and satisfactory explanation on the abovementioned two points, namely, of the measures taken by the President in relation to them, and of his intentions upon the subject. I flatter myself, that you will have the goodness to give me the said explanation as speedily as the case requires; and in the mean time, allow me to renew the assurances of my high consideration and respect.

(Signed)

LUIS DE ONIS.

*Mr. John Quincy Adams, &c. &c. &c.*

*Washington, 6th December, 1817.*



No. 3.

(Translation.)

*The same to the same.*

SIR,

Although I have but just arrived at the Federal City, as you know, I would not have lost an instant, after assembling the principal papers and documents, relating to the differences pending between his catholic majesty's government, and that of the United States, in resuming and continuing with you, to a definitive conclusion, the negotiation, which, by fortuitous causes, was suspended in the beginning of

the present year, if I had not hoped to give you time for being so far disengaged, as to be able to devote to these important concerns, all the attention they require. But I ought no longer to defer on my part, the necessary steps to open communications of such high interest, and consequently to proceed with you to the settlement and amicable arrangement of all the points in dispute between the two governments.

You will doubtless have been convinced of the impossibility in which I was placed, of commencing this negotiation last winter, by reason of my not being furnished with instructions suitable to the new character which ulterior circumstances had given to it, and my not having then received from my government such as extended to this case. I despatched the secretary of this legation to Madrid to lay this deficiency before my sovereign, and the difficulty under which it placed me, of entering into a negotiation which might effectually restore the most perfect harmony between the two powers, by putting an end to all disputes by means of a solemn transaction, which being founded on the principles of mutual justice, and combined in good faith with those of reciprocal utility and convenience, might be completely satisfactory to both governments and both nations. His majesty is filled with the greatest concern, on seeing that by this unexpected accident, the negotiation was delayed, notwithstanding his most sincere and decided wishes to conclude it, and strengthen his friendship and good understanding with the United States, as he had manifested from the moment of his restoration to the throne, gave immediate orders, that the necessary instructions should be communicated to me, for the execution of this sovereign trust in its fullest extent; and to omit no means, on his part, which might accelerate the desired epocha of this arrangement and definitive transaction; he, at the same time, caused to be proposed, by his principal secretary of state, to the minister of the United States at Madrid, a project for the said transaction; but it not having been admitted by that minister, who said that he was not authorized, to resume and terminate in Spain, the negotiation already transferred to Washington, and committed to me; the aforesaid secretary of legation returned without loss of time, and brought me the suitable instructions, accompanied with the positive orders of his majesty, that I should omit no means, as far as they might be compatible with justice, and the honor of his august character, to settle and terminate amicably all pending differences, and generously to satisfy the United States, in every thing which might depend on the free-will of his majesty.

Such are the dispositions of the king my master, and such the orders which he has communicated to me, anxious as he is, to adjust all differences with the United States, and give them solemn proofs of his high esteem and sincere friendship.

I am ready therefore to resume the negotiation, and to pursue it with you, in all the points embraced by it, until its final termination; and I shall be very happy, if doing so, I can satisfy all the desires and just hopes of the United States.

In consequence, I request, sir, that you would be pleased to inform me, when you are ready to enter into this important negotiation, and when it will be agreeable to you, that we commence the preliminary conferences; or in case you should consider them unnecessary, that we discuss the means of agreeing on, and fixing the most simple, expeditious and suitable mode of proceeding, with all possible despatch, to the settlement and final adjustment of all the points in dispute.

I await your answer to this note, animated by the most lively desire and the most flattering hopes, of terminating all disagreements and discontents between two nations, which by their mutual interests and the generosity of their sentiments, have always lived in perfect union and friendship, and ought to cement them more and more for their common happiness.

In the mean while, I renew to you my respects, and pray God to preserve you many years.

(Signed)

LUIS DE ONIS.

*Washington, 10th December 1817.*

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(No. 4.)

*The Secretary of State to Don Luis de Onis,*

*Department of State, December 16, 1817.*

*Don Luis de Onis,*

SIR,

I have had the honor of receiving your letter of the tenth instant, and shall be happy to receive you at the office of this Department the day after to-morrow, at one o'clock, to confer with you upon the subject of it. I am instructed by the President, on this occasion, to assure you of the satisfaction with which he has learned, that you are furnished with instructions from your government adequate to the adjustment of all the differences between the two countries, and of the earnestness of his desire that the negotiation may terminate in an arrangement mutually satisfactory to both parties.

I am, with very distinguished consideration, &c.

(Signed)

JOHN QUINCY ADAMS.

(Translation.)

*Don Luis de Onis to the Secretary of State.*

SIR,

After I had informed you in my note of the 10th of this month, and confirmed the same in our conference on the 19th, of the frank and friendly dispositions of his catholic majesty's government towards that of the United States, of his sincere desire to settle and terminate the differences pending between the two governments, in a manner just and satisfactory to both, and the positive orders I had received, with suitable instructions to that effect; I also acquainted you, that the king, my master, being disposed to oblige the United States in whatever might be compatible with the rights and honor of the monarchy, and the dignity becoming his august character, would condescend to cede the two Floridas to this republic, in consideration of an exchange or equivalent which might be useful or convenient to Spain. But as this exchange or equivalent must consist of a territory belonging to the United States, and which may offer invariable points, marked by nature, to fix the divisional line between the possessions of the Union and those of the crown of Spain, in a manner never to admit of doubt or controversy hereafter, his catholic majesty caused certain proposals for the said exchange or equivalent, to be made, through his principal secretary of state, to the minister of the United States at Madrid. They were decidedly declined by him, on the ground of their being inadmissible; and I was informed by you that they are so considered by your government, and that consequently it is necessary to have recourse to others, which may be admissible in the existing state of things.

Although the proposals made by his majesty's principal secretary of state, to the minister of the United States at Madrid, were neither absolute nor invariable, it is easy to perceive that they are founded on the perfect conviction of his majesty as to the irrefragable and notorious rights by virtue of which the crown of Spain has possessed both Floridas since she acquired them of England, and also the provinces and districts of country possessed by her to the westward of Louisiana, and which have ever been independent of, or absolutely unconnected with, and separate from, that province, without having ever passed, since their discovery, conquest and possession, under a foreign dominion. But, as the United States, since their acquisition of Louisiana, conceive they have a right to a greater extent of territory, both to the eastward and westward thereof, by setting on foot a dispute respecting the boundaries which separate them from the Spanish possessions, and pretending that they ought to include part of those possessions, it is not strange that the exchange or equivalent proposed for the Floridas, did appear inadmissible. It has therefore become indispensably necessary to free

this question of boundaries from all obscurity, and to adjust and establish the true points which divide, or ought to divide, the Spanish territories from those of this republic. Unless this inquiry and deliberation be previously made, it is absolutely impossible to point out or judge of a just equivalent, which would be admissible and satisfactory to the two contracting parties, inasmuch as the requisite basis of a cession and its equivalent, is wanting; this basis, as is obvious, must be laid, in the valuation of the territory specified in the contract, which valuation must be preceded by establishing the territory belonging to Spain, and also that belonging to the United States.

You cannot, therefore, but agree with me, sir, that it is absolutely necessary we should first settle the principal points relative to the question of boundaries, before we proceed to form and offer proposals for the cession of the Floridas, and for an equivalent to their value or estimation, or for the general and definitive settlement of all pending differences. Although this matter has already been the subject of negotiation at Aranjuez, it cannot be said, that the discussion should be considered as terminated or exhausted, or that the American government, having then stated its positions and opinions on the subject, it will not depart from them, although the opinions his Catholic majesty sustains, be different. It is unquestionable, that in the discussion entered into at Aranjuez, and early interrupted, not a single point or ground was touched on, on the part of the United States, that could serve as a support to their pretensions; and that on the part of Spain there were produced titles, dates, documents, and arguments, incontestably proving, by abundant and irresistible evidence, the rights of the monarchy to the territory in question; rights founded on property and immemorial possession, acknowledged by different powers, and never disputed by any. This affair is consequently not confined to points of opinion, on which each party may respectively maintain that which is best suited to them: it is reduced to unalterable truths, and positive and certain facts. I assure you, sir, in the name of my government, and the king, my master, solemnly promises it on the inviolability of his royal word, that the moment it shall be shown and proved, that any of the territories now in dispute, do *not* belong to the crown of Spain, and on the contrary, that they *do* belong to the United States, his majesty will, with the greatest pleasure, surrender to the disposal of the United States, such territory or territories as it shall be made to appear do not belong to the Spanish monarchy, and will, in good faith, acknowledge the right of the United States to the same. His majesty wishes for nothing that is not his own, or to which his crown has not a lawful right. I cannot but believe that the views of your government agree with those I have just stated, and that consequently we ought to lose no time, in immediately resuming the discussion commenced at Aranjuez, as to what relates to its principal points, and, by impartially examining the grounds established by both governments, and the arguments and proofs which they both have to produce anew, in support of their rights or pretensions, acknowledge frankly and with

good faith, what belongs lawfully to Spain, and what belongs lawfully to the United States. Guided by the certain principles of reason and mutual justice, it will be easy for us, by means of this investigation, to form a settled opinion, and come to a just result as to the boundaries which do or ought to separate Louisiana from the Spanish possessions, and thus terminate this dispute. That, which is connected with the question of losses and injuries, is still more simple and easy to arrange, as you admitted, when we conversed on that point in our late conference; and it will therefore prove no obstacle to our agreeing on the cession desired by the United States, and proceeding to it by means of a final settlement of all pending differences, which may at the same time embrace whatever may be stipulated by this particular agreement.

You may perceive, sir, that the mode I propose, is the most simple, just and proper for accomplishing the negotiation to be entered upon, and is that which was adopted by Mr. Erving, the minister of the United States, in his note of the 26th of August, 1816, in which he informed his majesty's government, that he was ready to enter into a full and frank discussion of all the points in dispute, and pledged himself thereto. As nothing further has since been done on the part of Spain, than to transfer the negotiation to Washington, the same reasons subsist which then dictated the incontestable propriety and necessity of resuming the discussion; reasons, of which you are doubtless fully convinced, as they are not to be combatted by any explanations, when examined with good faith, because they are self-evident, and identified with the soundest principles of justice.

As in consideration of these reasons and principles, I hope you will have no objection to agree to a succinct examination of the question of boundaries, and to a rational and fair inquiry into the titles and grounds on which each government rests its rights and pretensions. The natural order seems to require that we should begin this examination and inquiry with what relates to the eastern boundaries of Louisiana; that, after establishing them as they ought to be, we may proceed to examine and establish, in like manner, those which regard the western; it being, nevertheless, well understood, that neither by this act, nor any one whatever of those which contribute to produce the present negotiation, it shall be inferred, that his catholic majesty renounces, in any manner, the right he has, or may have, to reclaim against the non-fulfilment of the treaty of St. Ildephonso, concluded between Spain and France in the year 1800, and against the solemn stipulations contained in the additional articles of the same treaty, forming an essential part of the contract between the two nations.

The boundaries of Louisiana, on that side, join those of West Florida, and are so precisely established and fixed by public treaties, that I do not think your government can still persist in the opinion that Louisiana ought to be extended, by this Spanish province, to the river Perdido. If, however, the imagination, resorting to specious



subtleties and abstractions, carries us back to the period when France formed settlements on the left of the Mississippi, and possessed what are now two distinct provinces, namely, Louisiana and West Florida; still the certain and incontestable fact will follow, that Spain acquired neither of the Floridas from France. That power, while in possession of those territories, as she was until 1763, might name them and point out their respective limits as she thought fit. That is quite unimportant to the present question. It is certain, that by the treaty of 1763, France ceded to England all the territory possessed by her to the eastward of the Mississippi, with the exception of the island of Orleans; and it is also certain, that England united, as her own, from that year, the same territory to Florida, which, by the same treaty, Spain had ceded to her; and that, having added thereto the district and port of Pensacola, she called it West Florida, by which name, and no other, it has ever since been known. In the war of 1779, Spain conquered the said territory of West Florida from England; and this right of conquest was afterwards secured by a solemn treaty, between England and Spain, in September, 1783. It is by this title that West Florida belongs, until the present day, to Spain, in addition to East Florida, which was also ceded by the said treaty. It is evident then, that Spain neither acquired or received from France either of the Floridas, but that she acquired them both of England, in 1783, classed as two distinct provinces, and universally known by the names of West Florida and East Florida. She has, from that period, possessed them separate and distinct, without having ever confounded either of them with Louisiana, either in whole or in part. They are laid down distinct and separate, in the maps, charts, and geographies of all nations, from the year 1763, to the present day. In all the public acts and instruments which speak of them, they appear distinct and separate, as they do in the different treaties in which they are mentioned.

This being the case, how can your government still maintain its opinion? The United States acquired Louisiana from France, such as *she* had acquired it from Spain by the treaty of St. Ildephonso. In this treaty nothing is stipulated but the retro-cession of Louisiana; nor is there a single word in the whole treaty that bears the most distant allusion to West Florida, which is the object to which the dispute is reduced in that quarter. The clauses of the treaty are clear, precise, and conclusive; they fix the sense of the stipulation invariably, and leave no room for vague or specious constructions. The very title given to that treaty by the contracting parties, at once pointed out the territory restored by Spain to France, in exchange for the kingdom of Etruria. The title says, "Retro-cession of Louisiana;" and the word "*retrocession*" has not, nor ever had, any other signification, in the Spanish or French language, than the act of restoring to an individual, or a nation, that which had before been received from him, or from it; so that a different signification cannot be given to this word (adopted by the contracting parties to express the nature of

their stipulation) without changing the proper and genuine acceptation, in both languages, of the definite term they have respectively employed, and without substantially changing the intentions which serve as the basis of the contract.

The three clauses by which they afterwards go on to fulfil this convention, agree perfectly with the said title, and by supporting and explaining each other, they fix it in a clear and precise manner. The first clause says: "That his catholic majesty restores Louisiana to France, with the same extent it had when possessed by Spain." It is well known that no part of the Floridas, or other Spanish possessions, was then included in Louisiana, or annexed to it. At that time Louisiana was, in the hands of Spain, precisely what it was when ceded by France, in virtue of the treaty of 1764. In the same treaty its eastern boundaries are marked by a line running eastward from Manchac point, thence following the course of the river Iberville, and dividing the lakes Borgne, Pontchartrain, and Maurepas, and finally terminating at the Gulf of Mexico, without leaving the smallest doubt as to the true points of the frontier. This is the territory which Spain retro-ceded to France, because it is the only one which she possessed under the name of Louisiana. The second clause agrees with the first, and opportunely declares and fixes its import.—It says: "and with the same extent it had when possessed by France," expressions, which necessarily refer to the period of time which intervened between the cession, by France to England, of the territory possessed by her on the left bank of the Mississippi, and the cession made by the same power to Spain, of Louisiana. As the first of these two cessions took place in the year 1763, and the second in 1764, it is evident, that, during that interval, France possessed Louisiana in the manner stated; and with the same extent did she cede it to Spain, nor could she cede it with more, as she then possessed nothing more in that part of the American continent.

If a different meaning be given to this clause, by supposing that the contracting parties allude in it, to a former period, when France possessed Louisiana jointly with the territory ceded by her to England in 1763, it would place this clause in absolute contradiction with the title, and with the first clause of the treaty of Retro-cession, because, Louisiana not having, prior to the year 1763, while in the hands of France, the same extent it had when in the hands of Spain at the time of the treaty of 1800, nor the same that it had when ceded by France to Spain, in 1764, it follows, that the second clause would be absurd and unmeaning, if it alluded to a period of time anterior to 1763. It would be absurd and unmeaning, because, having no other object than to explain and determine more circumstantially the first clause, which is the fundamental one of the treaty, and that which governs the other, it would express a thing which could in no wise agree with the stipulations contained in it; since, by giving greater force to the import of the second clause, that which is considered the fundamental basis of the first, would be rendered false and erroneous. It would be absolutely contradictory to the express object

and intent of the treaty, since Spain not having received Louisiana from France with the extent in which she possessed it prior to the year 1763, but with that which it had when it was ceded in 1764, the retro-session, which as I have just said, is the express object and intent of the treaty, could not take place. Spain could only cede back to France what she had received from her; nor could she, moreover, add to the retro-session any other particular territory of her dominions, without expressing or mentioning it. Louisiana was ceded back to France, such as it was received from her, and as she possessed it in 1800, and had possessed it since she had acquired it. In fact, if Louisiana, while in the hands of Spain, included no part of West Florida, and if Spain had received no part thereof or of the other Florida, from France, how could she cede it back to France, or cede it without naming it, or saying a single word which could allude to this idea? Let us therefore agree, that it is impossible to give an arbitrary construction to the second clause of the treaty of St. Ildephonso, or any other than that which it has and ought to have, in connexion with the first clause, and with the title and the express object of that instrument. You cannot but be fully convinced, Sir, of this truth; and on proceeding to the examination of the third clause, you will find what I have just stated still more comprehensively and clearly demonstrated. This clause says, "and as it ought to be after the treaties concluded between Spain and other powers." The only treaties to which this clause could refer, were the following:

1. That of 1764, by which France ceded Louisiana to Spain. In this treaty the eastern boundaries of Louisiana are marked by the course of the Mississippi, and next by the river Iberville, the lakes Borgne, Pontchartrain, and Maurepas. It was consequently proper here to recall what was set forth in this treaty. 2. That of 1783, between Spain and England, by which the latter confirmed to Spain, the possession and property of West Florida, which she had conquered during the war, and ceded to her East Florida. It is a very fit moment to recall the inviolability of this treaty, since it is evident from it, that the Floridas are two provinces independent of Louisiana, absolutely unconnected with, and distinct from it; and that they came into the possession of Spain by very different titles, in consideration of which, one thing cannot be confounded with another. And the 3d is that of 1795, concluded between Spain and the United States. As in this treaty the frontiers between the United States and the Spanish possessions are described, and the Floridas are named as provinces notoriously unconnected with and distinct from Louisiana; as by it the dismemberment of Natchez, Nogalès, &c. was effected, and as it is therein stipulated, that the navigation of the Mississippi shall be free to the Americans and the Spaniards, and a place granted in favor of the former for their commodities on the banks of the Mississippi, for which purpose New Orleans was designated for the term of three years; it was consequently thought proper to refer to this

treaty, and show that it, as well as those of 1764 and 1783, is, and ought to be, in full force and effect.

You will perceive, sir, that the three clauses stipulating the retro-cession of Louisiana to France, cannot be more conclusive; that they are properly connected with and support each other, by declaring and explaining the intentions of the contracting parties, and the precise nature and extent of their contract; so that it is impossible to give another interpretation to any of the said clauses, as that would place them in contradiction with each other; and would, moreover, obscure the evident truth of facts, and involve a monstrous violation of public treaties, without excepting that of 1778, between France and the United States. You doubtless bear in mind, sir, that by the 6th article of that treaty, France solemnly engages never to acquire West Florida, or any portion of the territory ceded by her to England, in 1763. How then could she, in 1800, acquire West Florida or any part of it, even although the treaty of St. Ildephonso were not specifically and solely confined to the retro-cession of Louisiana, such as it was at that time, and as it had been since 1764? The understanding rejects all doubt on points so clear and evident. By the treaty of St. Ildephonso, France herself only received Louisiana, such as it was in the hands of Spain, and as it was after its cession by France; it is well known that it is the act of delivery which completes the contract. France was satisfied with what was delivered to her, and neither claimed nor pretended to any thing more. Would the French government, under Napoleon, have failed to claim this additional territory, if, in that treaty, there had been found a single word of which it could avail itself, or the smallest pretext for making the claim? Certainly not. France knew perfectly well that Louisiana did not comprehend a greater extent of territory, and that all was delivered that belonged to her at the time the contract was made.

The French government itself, after the dispute arose between the United States and Spain, which is now pending, declared in two official notes, "that the eastern boundaries of Louisiana are pointed out by the course of the Mississippi, and by the river Iberville, and the lakes Pontchartrain and Maurepas; that Spain has ceded back nothing more to France, nor had the latter a right to pretend to more; and, that having substituted the United States in her rights, they could pretend to nothing more in virtue of the cession, or sale made to them of Louisiana."

*"The 12th of Fructedor, 12th year."*

"The eastern boundaries of Louisiana are pointed out by the course of the Mississippi, and afterwards by the river Iberville, the lakes Pontchartrain, and Maurepas. This is the line of demarkation which bounds the territory ceded by Spain to France, by the treaty of the 30th of Ventose, 9th year. Nothing beyond this limit would have been asked for by France, and as she did nothing more than sub-

stitute the United States in the rights which she had acquired, they cannot require of Spain a more extensive cession, unless such cession be negotiated and stipulated between them and Spain by some further convention."

*"The 5th of Germinal, 13th year."*

"This question could not become the subject of a serious discussion between Spain and the United States, except the conditions of the treaties of cession, which have successively transferred Louisiana to France and the Americans, were lost sight of."

"Spain could only cede back to France the territory she had received from her: the rights of France were afterwards transferred to the United States, and they were so only to the same extent."

If, notwithstanding this full and irresistible demonstration, you should be of opinion, Sir, that it is still necessary to clear up this point, let us have recourse to France, that she may afford all the explanations that are judged to be necessary or useful, since nothing is more proper than that she and Spain should know to what the treaty concluded at St. Ildephonso is reduced, and they alone are competent to clear up any doubts that may have arisen as to the import of the expressions employed in the said treaty. It is unquestionable that it agrees with the principle generally acknowledged, that when a law or treaty offers any doubt, from the obscurity or ambiguity of the words contained in it, the party which made the law or the treaty, is the one which should explain the meaning of such words, and remove the doubt which has occurred.

I would now proceed to declare what are, or ought to be, the western boundaries of Louisiana, and what are those which separate, or ought to separate it from the Spanish possessions, should I not apprehend to make this note too diffuse. Reserving myself, therefore, to discuss this point in a separate note, I now recall to your consideration the chief grounds and arguments on which Spain founds her exclusive right to the whole extent of West Florida, in order that when we are agreed upon this point, we may proceed to a like examination and deliberation on the western boundaries of Louisiana.

But although this is the order pointed out by reason and justice in the actual state of the pending differences, nevertheless, that we may judge, upon the most exact information, of the grounds and arguments of each government respectively, and after agreeing on what belongs to Spain and what belongs to the United States, we may be enabled to lay the basis of a general and final settlement of all differences; if you should think that there can be a more expeditious mode of settling and terminating them, without prejudicing the inviolable rights of the crown of Spain, and on principles of reciprocal utility and convenience, you may communicate your ideas thereon to me, with the certainty that it is the earnest wish of his catholic majesty that this negotiation may be amicably terminated, for which purpose he has

given me decisive orders and instructions; and I again assure you, Sir, that I shall think myself very happy, if in this negociation I can satisfy all the just desires and hopes of the United States, for which I shall omit nothing that is in my power, or may be compatible with the rights and honor of his Majesty's crown.

I renew to you, Sir, the assurances of my respects, and I pray God to preserve you many years.

(Signed)

LUIS DE ONIS.

*Washington, 29th December, 1817.*

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No. 6.

(Translation.)

*The same to the same.*

SIR,

In my note of the 29th of last month, I proved to you, to a degree of moral demonstration, which I think to be fully convincing, what are and ought to be the eastern boundaries of Louisiana; and I hope such incontrovertible, decisive reasons, cannot fail to bring you fairly to acknowledge, that Louisiana neither does, nor can, include any part of West Florida. As I have not yet received your answer to the said note, it was my intention to wait for it, and not proceed to the examination of the second point of the question of boundaries, before we had agreed on and settled what relates to the first, in order to proceed methodically, and not to involve or embarrass the plain and expeditious course of this investigation; but being desirous of not losing an instant in explaining every point relative to so important a matter, I anticipate the examination of the western boundaries of Louisiana, which is the second point of the question, thereby facilitating whatever may claim your attention as to both, in their respective order, and enabling you to comprehend the truth at once.

I might contend, that the United States, having received the province of Louisiana from France with no greater extent than it had when France received it from Spain in 1800, and when Spain acquired it from France in 1764, that and no other ought to be the extent which properly belongs to it, without the necessity of recurring to any other reasons or grounds than those resulting from the treaty of St. Ildephonso; since Spain having ceded back to France in 1800 only what she had received from her in 1764, being that which

France sold to the United States, it is easy to investigate and establish what were, and in all that period continued to be, the proper extent and limits of Louisiana; but I am willing to admit, that France did substitute the United States in all the rights or pretensions she had or could have, at another period, as to what regards the western boundaries of that colony when hers, although nothing to that effect is expressed or insinuated in the treaty between France and the United States, by which the latter acquired it; and that the contrary is evidently to be inferred from the fact, that France inserted, word for word, in this treaty, the conclusive clauses of that of St. Ildephonso, which speak simply and precisely of the *retrocession* of Louisiana. I admit (to go on to a more copious and irresistible demonstration) that the United States have succeeded to all the rights which France may have had at another period; and I call your attention, sir, to the following observations, before I enter on the examination of the data or grounds on which the United States rest their claims of extending, in that quarter, the boundaries of Louisiana to the Rio Bravo del Norte.

It is well known, that for ages before France thought of forming establishments on the Mississippi, and therefore long before she had made any in Canada, the crown of Spain possessed the whole territory around the Gulf of Mexico, from the peninsula of Yucatan to the southern cape of Florida. If the eastern part of the said Gulf, as far as Panuco, the whole of which was then known under the extensive (generic) name of Florida, was not actually peopled by Spaniards, it is notorious and indubitable, that it was discovered by them as early as the year 1511, under the expedition of Juan Ponce de Leon; that all the coast, from the present Florida to Panuco, was explored by Francisco de Garay in 1518; and also by Hernando de Soto, and continually by other Spanish commanders until 1561 when it was explored and described by Angel de Villafane, and Jorge Ceron; said discoveries and description having been made in pursuance of a royal order issued for that purpose, papers of that description being still extant; and it was confirmed that from those remote periods, Spain was established as the mistress and possessor of all that coast and territory; and that she never permitted foreigners to enter the gulf of Mexico. nor any of the territories lying around it, having repeated the royal orders by which she then enforced the said prohibition, and charged the Spanish viceroys and governors with the most strict observance of the same.

The right and dominion of the crown of Spain to the north west coast of America, as high up as the Californias, is not less certain and indisputable, the Spaniards having explored it as far as the 47th degree, in the expedition under Juan de Fuca in 1592, and in that under the admiral Fonte, to the 55th degree, in 1640.

The dominion of Spain, in these vast regions, being thus established, and her rights of discovery, conquest, and possession being never disputed, she could scarcely possess a property founded on more respectable principles, whether of the law of nations, of public law,

or any others which serve as a basis to such acquisitions as all the independent kingdoms and states of the earth consist of.

Confining ourselves at present to the Mexican Gulf, and to the Spanish provinces situated to the westward of Louisiana, we shall see in what manner Spain extended her population and founded settlements in different points of the vast territory of which she was the mistress and possessor, in this part of the new world. All the country extending from the Rio de las Palmas to the confines of Panuco, in latitude 48 degrees, was then included under the name of Florida, and crossed the Mississippi. From the time of the expeditions undertaken to explore it, in 1512 by Juan Ponce, in 1525 by Vasquez de Ayllon, in 1527 by Panfilo de Narvaez, and in 1538 by Hernando de Soto, the Spaniards were incessantly engaged in advancing their discoveries and settlements in this extensive country, not only in the time of Luis Moscoso, and of Pedro Melendez, between the years 1542 and 1545, but they were constantly so in the time of all their successors. At the time of their first expeditions they landed in the bays of Santa Rosa and Espiritu Santo, or St. Bernardo, surveyed the whole coast, and crossed the Mississippi. They penetrated into the countries of Hirrhigua, Moscoso, Umbaracuxi, Aurera, Ocali, Apalache, Altapalia, Cofa, Mobile, Chasquin, Guigate, Uhangué, Guachoya, and others, which it would be tedious to enumerate. The same Hernando de Soto, after having in person surveyed the coast and interior of the country, crossed the Mississippi, and penetrated as far as the Rio Negro, in 1542, died at Guachoya.

No European nation had yet attempted to disturb the Spaniards in their possessions in the new world; none had trod on any point of those territories, and the Spaniards continued extending their establishments, as the only nation which had acquired the possession and the property of that part of the American continent and islands. They gave rise to the new kingdoms of Leon and Santander, in the year 1595, and to the province of Coahuila in 1600. They founded that of Texas in 1690, establishing missions, hamlets, and posts, under the name of Presidios, such as those of Bahia del Refugio, St. Antonio, Espiritu Santo, St. Juan, Nacogdoches, Ayeses, and San Miguel de los Adaes, a short distance from the Rio Roxo (Red river,) extending themselves to the banks of that river.

Long before, they had established themselves in New Mexico, where they built the capitol of Santa Fe, in 39 degrees north latitude, and opened and worked mines in its neighborhood. From thence they spread themselves wide of the rivers that empty from north to south into the Missouri, communicating and trading with the Indian nations; so that from that time Spain considered all the territory lying to the east and north of New Mexico, as far as the Mississippi and Missouri, as her property. These dominions and settlements of the crown of Spain were connected with those which she had on the Gulf of Mexico, that is to say, with those of Florida and the coasts of the province of Texas, which, being on the same gulf, must be acknow-



ledged to belong to Spain, since the whole circumference of the gulf was her's, which property, incontestably acquired, she had constantly maintained among her possessions, not because she occupied it throughout its whole extent, which was impossible, but on the principle generally recognized, that the property of a lake or narrow sea, and that of a country, however extensive, provided no other power is already established in the interior, is acquired by the occupation of its principal points.

These premises being established, and not to be shaken, as they are all supposed by history, ancient monuments, tradition, and irrefragable documents, let us proceed to examine for their origin, the grounds on which your government maintains its pretensions.

As early as the commencement of the seventeenth century, France and England began to form expeditions in imitation of the Spaniards, and to discover points for settlements in that part of America. The French expeditions penetrated into Canada by the river St. Lawrence, and those of the English were directed to different parts of the coast on the Atlantic. Hence originated the basis on which the two nations afterwards founded and extended their respective settlements. I shall now only speak of those made by the French, as they serve as a support to the actual pretensions of the United States. Francis Ribaut, an adventurer of that nation, had already penetrated into Florida with some followers, towards the end of the sixteenth century, and built the fort called Charles Le Fort; but this rash enterprize on the territory of the crown of Spain, was immediately overthrown and dissipated, the Spanish governor, Pedro Melendez, having attacked and taken the fort, and made prisoners of Ribaut and all his people. Mention is likewise made by some writers, of another Frenchman, called René de Laudonnière, who is said to have landed from the squadron of admiral Coligny, on the coast of Florida, in the year 1564, and built a fort which he named Carolin, about the spot where Pensacola now stands; but the same writers add, that the Spaniards immediately attacked the French, put them to death, and razed the fort or redoubt, they had built. Others say, that it was on that same fort, that the Spaniards afterwards built the fortress of St. Augustin. So vague and so uncertain is the information respecting these particular adventurers. The story related of a Recollet friar, called Father Hennipin, is still more ridiculous, who is said to have been made a prisoner by the Indians, at the time they were at war with the French of Canada, and taken to the Illinois, whence he was occupied in exploring the country as far as the banks of the River St. Louis or Mississippi, of which he took possession in the name of Louis the fourteenth, and gave it the name of Louisiana, (doubtless in his secret thoughts and by a mere mental act). It is added, that this friar escaped from the Illinois, and returned to Canada, where he related all he had seen, and afterwards published it in France more circumstantially in a memoir, which he dedicated to the celebrated Colbert. These accounts and others of the like nature

are contemptible in themselves, even though the facts they relate, were authentic, since nothing can be inferred from them, that can favor the idea started by those who speak of these transient adventurers and incursions.

Let us see what importance can be attached to what is said of Bernard de la Salle, who in 1679, descended from Canada to the Mississippi, and there built Fort *Crevcoeur*, according to M. du Pratz, or Fort Prudhomme, according to others. What is certain, amounts to this, that he only made a rapid incursion from Canada to the Mississippi, as any other adventurer might do, crossing the territories of another nation; that he returned to Quebec without any further result, than that of an imperfect exploration of the country; and that he embarked at Quebec for France, from whence he returned in 1684 with an expedition composed of four vessels, commanded by captain Beaujeu, to explore the mouth of the Mississippi. This expedition entered the Gulf of Mexico, on the 12th of December, of the following year. La Salle being deceived in his reckoning by the currents of the Gulf, could not find the mouth of the river, and being overtaken by a storm on the coast of the province of Texas, he was obliged to take shelter in the bay of St. Bernard. Two of his vessels were captured by the Spanish cruizers, another was lost in the bay, and Beaujeu returned to France in the only one that escaped. La Salle having landed with some people and ten pieces of artillery, then built a small fort as a protection against the Indians, and was obliged to change his ground three different times; notwithstanding which, the Clancoates Indians inhabiting the adjoining country, forced him to abandon the fort, and to retreat by the Rio de la Trinidad (Trinity River). While on this retreat, he formed a project of penetrating into the interior of the country, to see if he could discover the fabulous mines of Santa Barbara; but he was assassinated on his route by his own people; and such was the result of the famous French expedition, so much talked of. The Indians fell immediately on Fort St. Louis, and massacred the small garrison left by La Salle. The remainder of the French who accompanied him, shared the same fate; being dispersed in different directions after the fall of their chief, they perished by the hands of the Indians.

In the mean time news of this incursion having reached Mexico, the viceroy, fearful of a repetition of similar attempts, held a council of war to deliberate on the affair, in obedience to the royal order issued by Philip II. enjoining the extermination of all foreigners who would dare to penetrate into the Gulf of Mexico. An expedition was then resolved on, to be formed at Coahuila, under the command of Alonzo de Leon, to scour the country and hunt out the French, if any were still remaining. Having set out with the necessary force, he arrived on the 22d of April, 1689, at the place where La Salle had built Fort St. Louis, and on the 24th, at the entrance of the bay, where he fell in with the remains of the French vessel that had been wrecked. Having heard in his march that some of La Salle's com-

panions were still wandering about the country, or had taken refuge with the Indians, he shaped his course towards the nation of the Asimais, and was received by them with marks of friendship and respect; he, however, found no traces of the French, as no more of them were in existence.

Alonzo de Leon treated the Asimais with the greatest kindness, and called them *Texas*, which in their language signifies "friends." On the 22d of May, of the same year, he wrote to the viceroy, informing him, that there existed neither French nor any other foreigners in the whole country; that the Texas Indians possessed great attachment and good will to the Spaniards; and that it would be very proper to establish missions and garrisons throughout that country to prevent any future attempt or incursion of foreigners, and to preserve the conquest. This subject having been deliberated on in Mexico, the mission of St. Francisco de Texas was founded in 1690, after that nation had voluntarily submitted to the crown of Spain. The viceroy of Mexico continued to take effectual measures for protecting the country and preventing the intrusion of any French adventurers. The court of Spain, on being informed of what had passed, renewed rigorous orders to the same effect, and also gave directions for the instruction and government of the Indians. Such were the objects of the expedition under Don Domingo de Teran, and of that which was effected under the command of Don Gregoris Salinas, in May 1693. Since that period the province of Texas has continued in perfect tranquillity under the Spanish government, and no further attempts were made by the French to penetrate into any part of it.

You see, Sir, that the excursion of La Salle can give France no rights to that province, which had long before been acknowledged to be, and was incorporated in the Spanish dominions. Such an excursion was in fact nothing more than the rash attempt of a foreigner to explore part of the territories of another nation, and is not substantially different from that made by Mr. Le Vaillant in the country of the Caffres to the North East of the Cape of Good Hope; by which however, France acquired no right to that part of the Dutch possessions, although they were still desert when the said Le Vaillant explored them. What territories are there in the world, especially in extensive dominions, still new and thinly peopled, in which excursions of that nature have not been made by individuals of foreign countries, sometimes of neighbouring nations, which is the most common, and sometimes of those which, although at a distance, actuated either by curiosity or ambition, undertake to explore unknown countries, inhabited by other people and governed by other powers?

Nor can I refrain from recalling here what has been written and thoroughly investigated, touching the pretended settlement of the French in the Illinois and Arkansas.

Whether they were some of the individuals of La Salle's expedition, who had survived it, as Mr. Du Pratz has it, or whether they were other adventurers from Canada, it seems beyond a doubt, that

some Frenchmen did penetrate as far as the Arkansas, towards the end of the seventeenth century, or the beginning of the eighteenth, on which point, however, the records of that period do not exactly agree. Enterprising people from Canada, both Frenchmen and natives, communicated with the Indian tribes, and penetrated far into the interior to purchase cattle, and for other purposes of traffic. Some of them, therefore, fixed themselves at the post of Arkansas, not as settlers, but as agents, to carry on the trade between Canada and the natives of this district. The same took place at the post of the Illinois, long before the first foundation of the French colony of Louisiana was thought of.

Father Marquez, a Jesuit, had penetrated in 1671, as a missionary, into the Indian nation called Saulteux, as far as Chagwanigung, on lake Superior; and in the year following one Saliot, with a view to explore the Mississippi, proceeded from Canada to Chagwanigung Point. After joining father Marquez, they both advanced and succeeded in penetrating to that river by the Ouisconsin. They met with a considerable population in the country of the Illinois, at the mouth of the river Moingora; and after promising to visit them on their return, they suggested to those Indians the idea of entering the country by the river since called the Illinois; and the Indians did so and settled in a district known by the name of the Great Rock, or Great Penasco, about five leagues higher up than the mouth of the river. Soliet and father Marquez could descend the Mississippi no farther than the Arkansas, and on their return from their excursion, they found the Illinois encamped at the Great Penasco. Soliet continued his retreat; and father Marquez determined to remain with these Indians, to instruct them in the principles of the Christian faith. In this attempt he was succeeded by other missionaries, who afterwards proceeded to found a church there, sufficiently regular, composed of Illinois and Canadians who had met and united with each other: these people were no ways subject to the French government; but lived independent, in the manner of several Indian nations bordering on the United States. Several other Indians of the Miami and Shawanoe tribes came and settled themselves near the Big Rock, or Great Penasco; but they disagreed, and soon after dispersed. A party of the Illinois went down the river and settled at Cahokia, on the left bank of the Mississippi, fifteen or sixteen miles below the mouth of the Illinois. Other missionaries followed them; and thus went on this kind of colony, informal or wandering, but always independent of and unconnected with the French of Canada.

Let us now speak of the settlement of the French in the country called by them Louisiana. The first spot occupied by them in this country, was the bay of *Biloxi*, about thirty leagues to the eastward of the Mississippi, in the year 1699; or more strictly speaking in 1700; and Mobile, a little farther eastward, where they established themselves, was during two and twenty years, the capital of their new colony. From that time they observed the greatest caution in the settlements they formed on the banks of the Mississippi. Se-

venteen years had passed since the foundation of their colony, when they ventured to raise some huts on the left bank of that river; and this was on the spot now occupied by New Orleans, which five years afterwards became the capital of the colony, when the intimate relations between France and Spain, not only by virtue of the family compact, but more particularly by the elevation of Philip the 5th to the throne of Spain, favored the toleration of a dexterous encroachment on a territory, which was acknowledged to belong to that monarchy. In 1722, the French succeeded in fixing some German families on the right bank of the river, opposite to the settlements which they already had above and below the new city of Orleans. They afterwards settled some Acadians a little higher up, and finally, some others at Point Coupe. But the whole limits of these cottages or settlements did not extend to more than fifteen or twenty acres of land upon the front of the river, so that the French seeing a want of cattle, and feeling the necessity of establishing herds to keep up a supply, turned their views to the extensive and fertile prairies of Atacapas; and the governor of Louisiana thereupon applied to the commandant of the interior provinces of Mexico, for permission to establish some herds only, which was frankly granted to him by the Spanish commandant. In fact, they had nothing more than cattle establishments in Atacapas and Opelousas, when the colony was transferred to Spain in 1764. They had never gone farther; and it is to the Spaniards that the colony is indebted for the extensive population and cultivation of that part of the territory afterwards ceded back to France and transferred by her to the United States; as was also the case in the settlements of La Fourche, Avayelles, the Rapides and Ouachita, which did not previously exist, but were formed by the Spaniards within the proper limits of the monarchy.

From hence, you will clearly see, sir, that so far from Spain having retained any point belonging to French Louisiana, when she ceded it back by the treaty of St. Ildephonso, she left incorporated with it, many points, settlements, and territories, which, in truth, did not belong, nor ever had belonged to the said colony.

It would be too fatiguing, to trace step by step, all the incursions of the French from Canada, or from Louisiana, into other points of the Spanish dominions, by passing through Indian nations, or uninhabited countries. I cannot, however, omit touching on the accidental circumstance which gave rise to their settlement at Kaskaskias, twenty leagues below *Cahokia*. The inhabitants of Illinois, who had no connexion or dependance whatever on Canada, at length undertook to go down the river, and trade with the French at *Biloxi* and *Mobile Bay*; and these traders having discovered fertile and beautiful prairies on the right of the small river Kaskaskias, several of the French settlers removed thither in the year 1703, and founded what is now the town of Kaskaskias; but they always lived independent and in alliance with the Indians, until the Louisiana company sent *M. de Boisbriant*, as the king's lieutenant, with troops, to reduce and

direct this settlement. It was afterwards considerably increased in the hands of the French, who successively formed the settlements of Chartres, St. Philip, Prairie des Roches, and Prairie Dupont; but still, as you perceive, sir, on the left of the Mississippi; and it was not till several years afterwards, that they settled St. Genevieve, opposite Kaskaskias, on the right of the said river, an inconsiderable settlement, which made no progress until the country was ceded to England.

In fine, all the written documents and historical evidence, relating to French Louisiana, agree in dividing it into Upper and Lower, and proving that Lower Louisiana is bounded on the north by Bayou Manchac, by which it communicates from the river Mississippi to the Iberville; and that Upper Louisiana commences above the said Bayou, the post of Natchez being the principal settlement of the French in that quarter, in whose neighborhood they cultivated tobacco. The settlement of Natchitoches which they afterwards formed, was considered as depending on Upper Louisiana.

It would be easy to prove that this latter settlement was made by the French within the Spanish territory, and merely through the condescension or sufferance of the viceroys of Mexico, and the governors of the province of Texas. Before the French had founded New Orleans, there already existed the Spanish missions and settlements of San Francisco, La Purasima Concepcion, San José and Na Sa de la Guadalupe, at a very short distance from Natchitoches; and the right of property and possession on the part of the crown of Spain to the whole of this territory as far as the Mississippi, was notorious.

I am aware that the French attacked the missions of Texas, during the war between France and Spain under the regency of the duke of Orleans; that for this purpose they proceeded from the post of Natchitoches, and that the Spaniards retreated to San Antonio de Bexar, till the governor of the province, the marquis de Valero, advanced to chastise and keep the enemy in check. This commander marched against them in 1719, drove them from the Spanish posts, and obliged them to shut themselves up in Natchitoches.

This expedition is connected with the authentic facts, of which Mr. du Pratz has made up a ridiculous and fabulous tale, in his History of Louisiana, when he speaks of a Frenchman of the name of St. Dennis, and supposes certain conventions entered into between him and the duke de Linares, viceroy of Mexico. In 1715, St. Dennis penetrated from Mobile to the Spanish garrison of San Juan Bantista, with three companions and a passport, on pretence of going to buy cattle in the missions of Texas, but in reality to carry on a contraband trade, and explore the country. Both he and his companions were seized and conveyed to Mexico. After a variety of adventures, St. Dennis made his escape, and was one of those who set out from Natchitoches with other Frenchmen, to attack the inhabitants of Texas, as I have before stated.

After this event the Marquis de Aguayo came to Texas, re-established the old missions, and founded new ones, viz: Pilar, Adaes, Loreto, at the Bay of Espiritu Santo, or St. Bernard, and Dolores, known by the name of Orquizaco; he greatly improved San Antonio de Bescar, and placed the whole frontier of the province in a respectable state. Thus the Spanish settlements remained tranquil until Louisiana was ceded to Spain, when the garrisons of Adaes and Orquizaco were suppressed as being no longer necessary.

As a further proof that the post of Natchitoches was acknowledged even by the French as being within the Spanish territory. I shall add two facts; the first is, that when captain Don Domingo Ramon came with a party to Texas, after St. Dennis and his followers were sent to Mexico, he paid a friendly visit to the French at Natchitoches, and entered that fort with the royal Batova and Insigna, as a sign of the dominion and jurisdiction of Spain, to which the French made no opposition. The second fact is, that in the year 1742, the French governor of Natchitoches being desirous to remove that fort, which had been injured by an inundation, somewhat farther from the bank of the Rio Roxo, (the Red river,) he waited on the Spanish governor of the Adaes, Don Manuel de Sandoval, and requested the necessary permission to do so. Sandoval granted it, as the site, to which he wished to remove it, was no farther than a musket shot from its former situation. Notwithstanding, the viceroy of Mexico, on being informed of this act of accommodation, highly disapproved it, and despatched colonel Don Francisco de Brito, to Adaes to supersede governor Sandoval, and bring him under guard to Mexico to be tried there before a court martial; which was carried into effect with all the rigor of the law.

It is unquestionable, from the historical series of facts and the most unexceptionable documents, that the province of Texas extended to the Mississippi, and that the French never crossed the river into that district, but through the sufferance or permission of the Spanish governors; and that in consequence of the former abusing the generosity with which they were permitted to trade with the Indians of that territory, and to hold, for that purpose only, the posts of Natchez and Natchitoches, positive orders were issued to drive the French from the whole district, and destroy the said posts. The Spanish commandant advanced with a sufficient force to execute those orders; but he acceded to the proposals of the French at Natchitoches, which were confined to this, *that Arroyo Hondo, which is midway between Natchitoches and Adaes, should be considered as the dividing line, until the determination of the two courts.* In this state things remained without further change, and so continued until the cession of Louisiana to Spain, relieved those provinces of Spanish America from all embarrassment and trouble from the French. But it always was an undeniable fact, established by the irresistible titles and documents, that the French neither held nor had held, to the westward of the Mississippi, in 1719, any other post than Natchito-

ches, which they held merely by the condescension of Spain; and that the Spanish settlement of Adaes, only five leagues distant from the Rio Roxo, (Red river,) existed much earlier, and did so exist until Louisiana was transferred to Spain. The Parochial records of Nacogdochez and Adaes, with the registers of births, baptisms, and deaths, attest it still more circumstantially, as well as the proceedings of the pastoral visit made in 1805, by Don Primo Feliciano Marin Bishop of the new kingdom of Leon, who visited the district of Adaes and the whole province of Texas.

The right which Spain always had to all the territories to the north and east of New Mexico, as far as the right bank of the Mississippi and the Missouri, is proved with equal certainty. All these territories, and the different branches, falls, and waters of the Mississippi, were always comprehended within the line of the Spanish dominion in that part of America, from the earliest periods of its discovery and conquest. Although the French penetrated several times from Mobile and Biloxi, to different parts of that line, they never acquired any right to them. Their excursions were confined to trading or smuggling or exploring the country. The huts or posts, which they had in some Indian nations, were trifling establishments, clandestine and precarious, which they were unable to preserve. The Spaniards had traded much earlier than the French with all these Indian nations; with the Missouri's, extending along the river of that name; the Padornas, beyond the River La Platte, and still farther to the northwest, with the Latanes, and finally with several others as being within the dominions of the crown of Spain.

The French themselves never disputed the rights of the Spaniards to possession and property, nor laid claim to these parts of the territories of the Spanish monarchy. The court of France always took the greatest care not to injure the rights of Spain, on all occasions of making grants of land within her settlement of Louisiana; and the French settlers at all times carefully respected the right bank of the Mississippi, throughout its whole extent, as the well known property of Spain. No memorial can be found declaratory of a contrary opinion, except a decree of Louis the fourteenth, dated at Fontainebleau, on the 14th September, 1712, in favor of M. Crozat, ceding to him and the company formed by him, the French settlement of Louisiana, with an ideal and vague demarcation of boundaries, by extending them mentally to New Mexico, and the English province of Carolina, and along the Mississippi from the sea to the Illinois, &c. It is evident, that the court of France did not then possess any knowledge of the geography of that country, or that New Mexico was considered as bordering on the Mississippi; notwithstanding Louis the fourteenth had carried his liberality so far in that grant, as to give the French company even the River Mississippi and the Missouri. He might with equal reason have given that of the Amazons, the La Plata, and Oronoko. You are perfectly aware, sir, the expressions of this grant are vague and absurd. They never



could alter the fixed limits of French Louisiana, or of the Spanish possessions. The grant of Louis the fourteenth was always considered as the act of a disordered imagination. The Spaniards constantly preserved their dominion over all the right bank of the Mississippi to the Missouri, and over all the territories and waters, from the former to the right shore of the latter. Even the French themselves, notwithstanding this famous grant, never ventured to go beyond the certain and well known limits of their settlement, or violate those of the territory and dominions of the crown of Spain. It is, therefore, of no consequence to us, if such a blunder was committed by those who penned the said grant at Fontainebleau. If a document of this nature was sufficient to dispossess a nation of its dominions, or of any part of them, what security could there be in any part of the possessions of independent kingdoms and states? Can there be a mind capable of conceiving, that such a paper can fail to be absurd and completely despicable, since it never took effect, has always been resisted as rash and extravagant, and since the incontestable rights of Spain to the property and possession of the said territories, existed then and do still exist? Certainly not.

The court of France was immediately sensible of the extravagance of that grant, as no farther mention was made of it. On the contrary, when it ceded Louisiana to Spain in 1764, M. Kerlet, who had been many years governor of that province, was ordered to draw up a memoir, containing a description of its proper extent and limits. This memoir, delivered by the duke of Choiseul, minister of France, to the Spanish ambassador at Paris, as a supplement to the act of cession of Louisiana, agrees substantially with that which I have just now pointed out. I would carry this demonstration still farther, if I thought it necessary; and I will do so, if you shall have any thing to object to it. In the mean time, I now confine myself to declare to you, sir, and to the government of the United States, in the name of the king my master, that although Spain has an original and indisputable right to all the right bank of the Mississippi, his majesty has resolved to claim this right, solely with a view to adhere to the *uti possedetis*, or state of possession, in which the crown of Spain was, when she acquired Louisiana in 1764, and in which that of France was at the time she made the cession. His majesty paying due respect to all such treaties and conventions, as have caused a change in the state of possession of the two nations in that part of America, religiously confines himself to the express period, when Louisiana was circumscribed by the well known extent and boundaries, with which it passed into the hands of the United States.

As these boundaries, to the westward of the Mississippi, although always notorious and acknowledged, have not been marked out with the formality necessary to avoid doubts and arbitrary pretensions, and as it is only evident, that they undoubtedly proceed from the Mexican Gulf, by the river Marmenta or Marmentao, and Arroyo Hondo, by drawing a line between Natchitoches and Adaes, which crosses

the Red River, and extends towards the Missouri, I have done no more than point out the basis for a line of demarcation; and after we have agreed on this basis, a commission composed of Spaniards and Americans, formally appointed and authorized by their respective governments, can and ought alone, to examine and fix the boundaries between the possessions of the two powers, keeping in view the documents exhibited on both sides, and comparing them on the spot with the points to which they refer. The basis I now speak of, as necessary for this demarcation of boundaries, must be sought for precisely in the most marked, leading, and notorious points, which showed the proper direction and extent of the territories of Spain, France, and England, in 1763 and 1764, since we cannot seek for them in preceding periods, the possessions of the three powers in this part of the American continent, being then very different from what they have been after those periods, in virtue of public treaties, which are, and ought to be, inviolable.

The situation, therefore, of the three powers, until 1763, was as follows: The crown of Spain extended its dominion to the east, over the right side of the Mississippi, from its mouth to the mouth of the Missouri; and to the north, over the right side of the latter river, from its mouth to its source. Florida, already contracted by the *intrusive establishment* of Louisiana, commenced at the river Perdido, and extending eastward, towards the river Santa Maria, (St. Mary's) included the whole Peninsula, which extends as far as the 23° of south latitude. Its northern boundary was not yet fixed. In addition to the colony of Louisiana, such as I have shown it was, and ought then to be, France possessed the territories of Upper and Lower Canada, extending south to a line running from the river Alivamoia, and following the chain of the Alleghanies until it struck above Chaleur Bay. England extended her possessions to the south of the said line, on the coast of the Atlantic, from the river St. Mary to the river St. Croix, and added to those possessions all the territory lying north of the two Canadas, as far as Hudson's Bay and lake Winnopeeg, which had been ceded to her by France, at the peace of 1713.

But France, as you know, sir, was, by the treaty of 1763, excluded from the continent of North America, with the exception of Louisiana, then reduced to the island of New Orleans, and to the tract of country to the north of Missouri, and extending to the British possessions. By that treaty, she ceded to England both the Canadas, and all that part of Louisiana, extending over the left side of the Mississippi from its source to the bayou Manchac, and thence following the left of the river Iberville, the lakes Maurepas and Pontchartrain, the coast and islands, to the river Perdido. Spain ceded, in like manner, Florida to England, such as I have described it; and in the year 1764, which is the second period when it is necessary to distinguish and fix the basis referred to, she acquired, by cession, from France, her remaining portion of old Louisiana. She afterwards acquired

what France had ceded to the English, on the left of the Mississippi, and Florida also, which she had ceded to them in 1763, as is proved by the treaty of 1783. This treaty, and those of 1763 and 1764, before mentioned, are those which it is necessary to keep in view, together with that of St. Ildephonso, by which Spain ceded back to France what she had received from her; and France accepted the delivery, declaring herself satisfied, and taking possession by virtue of an act of his catholic majesty, which expresses the *retrocession of Louisiana by Spain to France, such as she had received it from France, in 1764.*

The treaties between France and the United States, and between the latter and Spain, the first in 1778, and the second in 1795, must likewise be kept in view, to illustrate incontestable rights and establish unalterable principles. To the treaties just mentioned, your government and his catholic majesty may add all such other titles and documents as may be thought necessary to remove or settle any doubt which may arise in the subject matter, to the end that the basis of a demarcation may be laid down upon a due understanding, and established and fixed with the greatest possible exactness.

You are perfectly aware, Sir, that there can be no other just mode of settling the dispute in relation to the question of boundaries, and that it is the one which has always been adopted by all nations in similar cases; it being the anxious wish of his catholic majesty that this demarcation may be so accomplished as to leave no room for doubts or controversy in future, by proceeding to it with good faith, and in a manner that may be satisfactory to both parties.

I, therefore, conclude this note with the same opinion I expressed in my former one, namely, that it is indispensable to examine, ascertain and agree on the points necessary and essential to the establishment of the true boundaries, which separate, or ought to separate, Louisiana from the Spanish dominions; and that this can only be determined by the mode proposed. If you will be pleased to point out to me any other, which, while it fulfils that object, may be conciliatory and compatible with the rights and honor of the crown of Spain, you may be assured, Sir, that I shall adopt it with pleasure, as I shall thereby further the intentions of my sovereign, which are to terminate, as speedily as possible, the disputes now pending in an amicable manner, so as to leave no spark of disagreement in future.

With these sentiments I have the honor to offer myself to your disposal, and pray God to preserve you many years.

(Signed)

LUIS DE ONIS.

Washington, 5th January, 1815.

## No. 7.

(Translation.)

*The same to the same.***SIR,**

Having stated to you in my notes of the 29th of the last, and 5th of the present month, all that I thought proper and necessary on the subject of boundaries, that we may ascertain, discern and fix with impartiality, justice and good faith, those which divide or ought to divide Louisiana from the Spanish possessions situate to the east and west of that province, acquired from France by the United States; I now proceed to discuss the different points on which your government founds claims against those of his catholic majesty.

As this matter was sufficiently discussed (*ventilado*) and placed in the strongest light of evidence by the Spanish government, in the notes addressed by it to Mr. Pinckney, at Aranjuez, and afterwards to the American commission, composed of that gentleman and Mr. Monroe; and also in those which in the last instance were addressed by it to Mr. Erving, at Madrid; I shall reume the subject briefly and precisely, merely touching on the principal points of the dispute, and showing with simplicity and clearness, to what the state of the question is reduced, and in what manner it should be fairly and justly arranged.

I divide into two classes the points on which your government demands satisfaction and indemnification of his catholic majesty. The first comprehends the injuries, losses and damages suffered by American citizens from Spanish authorities and subjects, and those suffered by the subjects of the crown of Spain from American authorities and citizens. The second comprehends the losses, damages and injuries sustained by American citizens from captures made by French cruizers on the coasts of Spain, and condemned by French consuls residing in the Spanish ports. To this the whole question of indemnification is reduced.

The points embraced by the first class, are as follows:

1st. The damages and injuries unlawfully caused by Spanish authorities and subjects on American citizens; and by American authorities and citizens on the subjects of the crown of Spain; in violation of the law of nations and of the existing treaty, during the war between Spain and Great Britain, which terminated at the peace of 1801. 2dly. Damages and injuries sustained by American citizens in consequence of the interruption of the place of deposite at New Orleans, by an order of the intendand of the royal treasury of Spain, in the province of Louisiana. 3dlv. Injuries, damages and losses caused to citizens of the United States by Spanish authorities and sub-

jects, and by American authorities and citizens to Spanish subjects, directly or indirectly, from the year 1801 until the period when the correspondent convention between the two governments on all the points embraced by the question of spoliations, shall be concluded and signed.

Those which are comprehended in the first point are acknowledged to be evidently founded on justice; and to carry them into effect, there exists ever since 1802 a convention stipulated and signed between Spain and the United States. You are aware, sir, that the suspension of this convention did not originate with his catholic majesty's government. His majesty is ready to give full effect to it; and on the basis of that convention we can establish and agree on what may be most just, suitable and expeditious, to make a reciprocal satisfaction for the aforesaid injuries and losses, comprehending in the convention, to be stipulated and signed for that purpose, all the injuries and losses, respectively suffered, since 1801 to the present; because these two points only are distinct in point of time, but, as you are perfectly aware, they are, in all other respects, of a like nature, and therefore of equal rights and justice.

The first and third points are consequently to be acknowledged as substantially forming only one, subject to the examination and decision of the joint commission which is to determine the necessary compensation, in virtue of the convention to be stipulated on the basis of that of 1802.

The second point, namely, that of the suspension of the deposite at New Orleans, might be omitted. You are aware, sir, that it lasted but a very short time, and in the depth of winter, when the exportation of the produce of the western states was very inconsiderable, and very hazardous and difficult; that, moreover, the order of the intendant, produced no other inconvenience to the American citizens than the trifling one of loading in the stream, instead of laying their boats along the quay at New Orleans; and that the said order of the intendant was an arbitrary act, duly disapproved of by his catholic majesty, and for which he directed his minister to give suitable satisfaction to the United States, in his royal name. The United States having received it, this affair ought from that time to be considered as terminated.

On the other hand, you cannot but admit, that his catholic majesty was not bound to continue the deposite at New Orleans, after the termination of the precise period stipulated by the treaty of 1795, by which his catholic majesty only agreed to designate another spot for the said deposite upon the banks of the Mississippi. As this new spot was to be to the satisfaction of the United States, it was for them to point out and ask for it. The suspension, ordered by the intendant, although highly disapproved by the Spanish government, was in consequence of the scandalous contraband and abuses by which, under cover of the deposite, enormous frauds were committed on the royal revenue. By the treaty no provision was made for this case,

nor was there any stipulation relative to the time which was to intervene during the removal of the deposite from New Orleans to another spot on the bank of the Mississippi, or to the intermediate period between the suspension of the said deposite, and the assigning another situation for it.

The government of Spain was, therefore, not bound to become answerable for the losses and injuries eventually sustained by the short interruption of the deposite, since such obligations could only grow out of the stipulations of that treaty, which does not contain a single word that has the most distant allusion to such an obligation or engagement on the part of his catholic majesty.

Notwithstanding these reasons, and various others which I could adduce, to prove that the government of Spain cannot be bound to make satisfaction for the aforesaid losses and damages, his catholic majesty is disposed to yield to the reclamation of the United States on this point, provided they still insist on it, and to submit it, with the others spoken of, to the investigation and decision of the joint commission. There will, therefore, be no difficulty, in also including this point, as far as it relates to injuries really caused by the order of the intendant of New Orleans, in the convention to be formed and signed, if required by you; it being his catholic majesty's desire to give continued proofs to the United States of his frankness, good faith, and condescension. I now proceed to the claim for losses and injuries committed on citizens of the United States by French cruizers and tribunals, in the capture of American vessels on the coasts of Spain, and their condemnation in Spanish ports, forming the object of the second part of this question, or that embracing the points of the second class, in the order of the enumeration I have adopted.

This part of the question was discussed in a very luminous manner, in the notes addressed by his catholic majesty's government to the American ministers on the 10th February and 5th March, 1805; and you are aware, that no reply was made on the part of the United States, weakening in the least the force of the principles and the truth of the facts on which the opposition of his catholic majesty to a responsibility for those damages and injuries was grounded. You will agree with me, Sir, that there is no possibility of deciding, by a general rule, the extent of the responsibility of a nation, on whose coasts and ports aggressions have been committed by another against a third party, as it depends in a great degree on the circumstances of the case, and the particular stipulations binding on nations.

By the treaty between Spain and the United States, the obligation of Spain is reduced to exercise its good offices with the offending party, and to aid the claims of the party aggrieved. "Each party shall endeavor, (says the treaty,) by all means in their power, to protect and defend all vessels and other effects belonging to the citizens or subjects of the other, which shall be within the extent of their ju-

jurisdiction, by sea or by land, and shall use all their efforts to recover and cause to be restored to the right owners, their vessels and effects, which may have been taken from them within the extent of their said jurisdiction, whether they are at war or not with the power whose subjects have taken possession of the said effects."

On the part of Spain this has been done; and if her efforts have not produced the desired effect, the fault does not rest with her. Besides, the injuries done by French privateers on the coasts and in the ports of Spain, to American citizens, have a particular character, which relieves the government of Spain from all obligation to indemnify them for those losses, even although such obligation had existed. The United States were not at war with France, consequently their recourse, as the aggrieved party, was always open to the government and tribunals of the aggressor. Spain was then in alliance with France, and both were at war with Great Britain. She, therefore, could not prevent the privateers of her ally from entering her ports, as they were not fitted out against the Americans, but against the English. If these privateers, after going on their cruize, committed aggressions on American vessels, on pretence of considering them or their cargoes as English, the Spanish government could neither foresee nor prevent it. The injuries were already done before it was apprised of them. Neither was it in the Spanish ports where the injury was completed, but in France, by the tribunals of cassation, to which the Americans appealed from the decision of the French consuls residing in the ports of Spain. It was unquestionably in France that the offence and injury originated, and in France were they consummated. How then can indemnification be claimed of Spain for such injuries, and not of France who was the cause of them, and the power enabled to compel the aggressors to make due satisfaction, as they were her subjects and had given the requisite bonds in her courts for their good conduct in their cruizes? You cannot but be sensible, Sir, that according to every principle of reason and justice, it would evidently and unquestionably be monstrous to claim these indemnifications of Spain; as the power existed then, and still does exist, which caused the injuries here treated of.

I would go still further to show, that by no established principle of the law of nations can Spain be considered responsible for such indemnifications, not even indirectly, in case France should refuse to make them. I would cite, among others, the case in which Sir W. Scott, judge of the high court of admiralty of Great Britain, decided, that prizes made by a belligerent, and carried into the ports of a power, its ally, and there condemned, are justly and lawfully condemned, according to the law of nations, and that the owners of the property, prior to its condemnation, have no longer a claim to it after condemnation has taken place. From this and other decisions, it follows, that the government, to whose subjects the property condemned belonged, has no ground to bring forward complaints or claims against the government of the country where the prizes were made, because

the condemnation is conformable to the law of nations, the sentence pronouncing it is valid, and the authority condemning the property legal, and proceeded according to rule. This doctrine is well known and acknowledged in the United States, as also the principle, that when a nation has employed its good offices, and taken such means as are in its power to procure satisfaction for the offence, and obtain compensation for the injuries committed on its coasts, and in its ports, on a friendly or neutral nation, it is bound to nothing more, although its good offices and endeavours may not have produced the desired effect. This principle was applied by Mr. Jefferson, in his letter of the 5th September, 1793, to Mr. George Hammond. It is also admitted by the best civilians, and agrees perfectly with the obligations of Spain towards the United States, resulting from the existing treaty between the two nations. I mean, however, in case Spain had not been the ally of France at that period, because, even in that case, the principle I have just indicated would govern; but being then the ally of France in the war against Great Britain, she might certainly employ, among the exceptions exempting her from all responsibility in the case here treated of, the principle which served as the ground of Sir W. Scott's decision in the British admiralty court; but I do not consider it necessary farther to illustrate these legal objections of the government of Spain against the the claim of your government for the aforesaid injuries, inasmuch as this capital exception attends it, namely, that satisfaction for those injuries was already made to the United States by France, and consequently this affair is, and ought to be considered as settled and terminated. This essential exception makes it superfluous to produce others, since the obligation spoken of, which was and could only be but one, is thereby evinced to have been extinguished. The French government has positively declared, that "in the special convention concluded between France and the United States, this point was settled; and that the said convention, by which this claim and demand of the United States, for due compensation for the losses and damages now spoken of, were attended to and redeemed, was ratified in 1802, together with the treaty of cession or sale of Louisiana." That is to say, that the amount of the said injuries and losses was then estimated and compensated in the price stipulated for Louisiana; so that full compensation was then made to the United States for all that was estimated and agreed on between the French and American governments, as forming the value of the said losses and injuries. The French ambassador at Madrid, gave a verbal assurance to this effect to his catholic majesty's minister of state, and the minister of foreign affairs of France gave a similar assurance to the Spanish ambassador at Paris. His catholic majesty also demanded a formal and categorical answer of the French government on this point, which formal declaration I here copy: it is thus expressed, in the note transmitted by the minister of France to the ambassador of his catholic majesty.



“ Bourbon L'Archambault, 8th Thermidor, 12th year, (27th July, 1804.) Monsieur l'Ambassadeur, I have duly laid before his imperial majesty the note which you did me the honor to address to me, dated the 24th July, relative to the discussion which has taken place between the court of Spain and the government of the United States. I shall not fail immediately to submit to him the more ample explanations which your excellency announces your intentions of making to me, both verbally and in writing, on this dispute, which seems to threaten the good understanding existing between the United States and your court. Although I might yet defer giving my opinion to your excellency, in consequence of your intention to furnish me with the explanatory statements which you announce, I do not hesitate to inform you by anticipation, that his imperial majesty cannot but be extremely sensible to the uncertain and uneasy position in which two powers, in amity with France, are placed by this misunderstanding, and that he will certainly do whatever may depend on him to prevent its coming to an unfortunate issue.

“ It is several months since I was informed by the charge d'affaires near the federal government, of the pretensions of that government, relative to a portion of country bordering on Florida, which has become a great object of ambition to the Americans, in relation to the establishment of their revenue system; and it seemed to me, from this information, that it was important that the federal government should use all the means in its power, to obtain the annexation of this frontier portion of Florida to Louisiana; but the opinion due to the justice and moderation which distinguish the personal character of the President of the United States, has not, nor does it yet, permit me to think that menaces, provocation and groundless hostility may be considered by him as the most suitable means to enable the United States to acquire a portion of territory belonging to a foreign power, which suits their convenience.

“ Respecting the second point in dispute, which your excellency does me the honor to speak of in your note, I must say that I had previously no knowledge of it. And, indeed, if I had been informed that his catholic majesty's ministers had carried their condescension for the government of the United States so far as to engage themselves towards it for indemnifying violations pretended to have been committed by France, I should certainly have received orders from my government, to express the dissatisfaction which France must feel on the occasion of so unseemly a deference; and this dissatisfaction would have been expressed still more warmly to the government of the United States than to that of Spain. There is every reason to suppose that the court of Spain, by thus yielding to an improper demand, has emboldened the American government, and determined it to become pressing, and even menacing on this occasion. As for the rest, the explanations formerly given to your court on this point, as well as those which have been authorized to be given to the government of the U. States, by the charge d'affaires of his imperial majesty;

must enable you to judge of the opinion formed by his majesty on this question, which having already been the subject of a long negotiation and of a formal convention between France and the United States, cannot again become a subject of discussion."

"Such, Monsieur l'Ambassadeur, are the remarks that I have thought proper to make in the first instance, in answer to the preliminary note of your excellency. In addition, I must observe, that in my opinion, the demonstrations which appear to me to have given your government the uneasiness it has charged you to express, are somewhat exaggerated, either from the impression they have produced at Madrid, or from the construction, possibly too extensive, which the minister of the United States to his catholic majesty, may have, perhaps, given to his instructions. There is no room to suppose that a government, anxious as that of the United States is, to establish a general opinion of its wisdom and moderation, would resolve on engaging in an unjust war through motives of ambition; but as the United States attach great importance to the acquisition of a part of Florida suited to their convenience, it is not to be doubted that they will make every effort to obtain it. The ground of this dispute, therefore, rests entirely on this point. Perhaps the federal government may have thought that it would tend to promote a negotiation for exchange, by exciting a diplomatic quarrel. The wisdom of his catholic majesty will certainly suggest to him what is proper to be done on this occasion, with a view to terminate a dispute, which, I have no doubt, will incessantly be revived, so long as no change will take place in the actual relative position of Louisiana and the Floridas; but, on this point, it is for the wisdom of his catholic majesty to decide. The United States are not founded in making any claim on his majesty. A positive declaration was made to them, that Louisiana was delivered to them, such, and with the same extent it had when acquired by France, and this declaration will again be made to them as often and as positively as his catholic majesty will desire it.

"I request your excellency to receive the assurances of my highest consideration. Cha. Mau Talleyrand. To Admiral Travina, ambassador of his catholic majesty."

You see, sir, that this declaration of the French government is conclusive, and that the responsibility for losses and injuries caused by French cruizers and tribunals on the coasts and in the ports of Spain, is removed from the period of that agreement; and that to renew a claim for what has been already paid and satisfied, would be exacting double reparation for one and the same injury, and double payment for one and the same debt. Notwithstanding, if the United States have still a claim for the complete fulfilment of this satisfaction and payment, his catholic majesty is ready to unite his good offices and earnest requests to this claim of your government on that of France, in order that she may perform, and cause to be performed, whatever may be justly required in behalf of American

citizens who have sustained losses and injuries by her cruizers and tribunals. To this the obligation of Spain, in the present case, is reduced; and his catholic majesty's government offers immediately to sustain all the just pretentions which the government of the United States may be desirous to form against the government of France on this point, or to demand of it all such explanations as may be judged necessary to clear up all doubts, if any are yet entertained by the United States, on this matter.

This point then being separated from those connected with the question of claims for injuries, losses, and damages, because that is already settled between France and the United States, or is to be settled with France directly, if any thing still remains to be performed, we can agree upon a just and suitable mode of determining a reciprocal satisfaction for the injuries, losses, and damages, before spoken of, and included in the three points of the first class, as enumerated in this note, in order that we may proceed more clearly and methodically. These three points, as I have before said, will be submitted to the judgment and decision of the joint commission, in virtue of the convention to be formed on the basis of that of 1802, simplifying and rectifying it in such manner as will insure its most expeditious and faithful execution.

In this note and the two others which I have already had the honor to address to you, are contained all the points in dispute between the government of his catholic majesty and that of the United States; and to avoid confounding them with each other, I have treated them in their regular order, with precision, simplicity, and clearness. You can examine each of them, sir, with the impartiality and rectitude which distinguish your character; and I flatter myself that all the motives and grounds of the controversy will be completely removed by your discernment and wisdom, as you will not fail to acknowledge the irresistible force of what has been, and is now demonstrated on the part of the government of Spain.

When the different points treated of in each of these notes, with the necessary discrimination, are considered, and a decision formed on each of them, it is requisite that we should definitively settle and terminate the controversy, without leaving any room for dispute in future.

This general and definitive arrangement of all the points in dispute, must, by its nature and circumstances, precede the negotiation for the exchange or cession of the Floridas, since, until it be determined and settled what are the territories on the frontier which belong to Spain, and what are those which belong to the United States, it is impossible to estimate the equivalent to be given to Spain for the two Floridas. Nevertheless, as it is the earnest desire of his catholic majesty to meet the wishes of the United States in every thing that may be compatible with the rights and honor of his royal crown, you may, sir, devise and propose a mode by which we may at one and the same time adjust all the points of the controversy, and stipulate the

exchange or cession of the Floridas, in case your government should not agree to our previously settling the points connected with the question of boundaries, and establishing a convention, in conformity to the basis of that of 1802, for the mutual compensation of losses and injuries, according to the order I have adopted in my note.

I expect, therefore, your answer, sir, whether it be confined distinctly to the subject of each one of my notes, according to their respective order, or to propose a mode embracing all the points comprehended in them, by which we may have them collectively settled in the negotiation which is to be entered upon for the exchange or cession of the Floridas. In this proceeding you will perceive, sir, a certain proof of the frankness and good faith of the Spanish government, and of the sincere and friendly sentiments entertained by the king, my master, for the United States.

I conclude, with the renewed assurances of my respects, and I pray God to preserve you many years.

(Signed)

LUIS DE ONIS.

*Washington, 8th January, 1818.*

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No. 8.

(Translation.)

*The same to the same.*

SIR,

In the National Intelligencer of the 6th of this month, I have seen published the official notice of the occupation of Amelia Island by the troops of the United States. I had already anticipated this unpleasant event, by the note which I had the honor to address you on the 6th of last month, in which I remonstrated in the name of his catholic majesty, against the measures announced in that part of the President's message to both Houses of Congress, which manifested an intention to invade, and forcibly seize on places and territories, belonging to the crown of Spain. Having received no answer to that note, I now feel myself obliged to repeat its contents to you, and to protest, as I now do strongly protest, in the name of the king, my master, against the occupation of Amelia Island, effected by the naval and military forces of this Republic, destined to operate against that island, forming a part of East Florida, one of the possessions of the Spanish monarchy, on this continent.

Whatever may have been the motives on which the Government of the United States have founded their adoption of this measure, it cannot but be considered by all nations, as a violent invasion of the dominions of Spain, at the time of a profound peace, when his catholic majesty omits nothing to give the most generous proofs of his perfect friendship, and high consideration for the United States.

I therefore trust, that upon your communicating this solemn reclamation and protest to the President, he will be pleased to direct that suitable orders be given to the American commanders at Amelia Island, and on that station, forthwith to restore the said island, together with all its dependencies to his catholic majesty, and to deliver up the same to the Spanish commandant, and officers presenting themselves for that purpose, in the name of their sovereign.

It is also my duty to represent to you, sir, that at the time of the invasion and occupation of that island by the American troops, there was, and I believe still is, a considerable property belonging to Spanish subjects, which, in all cases, it is required by strict justice, should be delivered to the owners, which I doubt not has already been, or will be done, in a due and proper manner, care being taken in the mean time, that it be not removed, or suffer injury.

I await your reply to this reclamation and protest, that I may be enabled to give seasonable intelligence and instructions to the governor of St. Augustine, and to the captain general of the island of Cuba, provided the President, as I flatter myself, will resolve on the prompt restitution and delivery of Amelia and its dependencies, to his catholic majesty's government.

I cannot by any means doubt that this will be effected, confiding as I do, in the high rectitude of the President, and in the inviolable principles of public faith, on which the security of nations reposes.

I have the honor to renew the assurances of my respects, and pray God to preserve you many years.

(Signed)

LUIS DE ONIS.

Washington, 8th January, 1818.

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No. 9.

*The Secretary of State to Don Luis de Onis.*

*Department of State,*

*Washington, 16th January, 1818.*

SIR,

Your letters of 29th December, and of 5th, and 8th of the present month have been received, and laid before the President of the United States.

He has seen, not without surprize and regret, that they consist almost entirely of renewed discussions upon the several points of difference which have so long subsisted between the United States and Spain; discussions which had been exhausted in the correspondence between the minister plenipotentiary of the United States, at Madrid, and your government, in the years 1802, and 1803, and more especially in that between Don Pedro Cevallos, and the special, extraordinary mission of the United States to your court, in 1805; a mission, instituted by the American government, under the influence of the most earnest desire to terminate amicably, and to the satisfaction of both the parties, all those differences; but which, after five months of negotiation at Aranjuez, issued in the refusal of Spain to give satisfaction to the United States, upon any one of the causes of complaint which were to be adjusted, or even to settle the questions of boundaries, existing between the United States and the Spanish provinces bordering upon them. The President considers that it would be an unprofitable waste of time, to enter again at large upon topics of controversy, which were at that time so thoroughly debated, and upon which he perceives nothing in your notes, which was not then substantially urged by Don Pedro Cevallos, and to which every reply essential to elucidate the rights, and establish the pretensions on the part of the United States, was then given. For proof of which, I beg leave merely to refer you to the letters of Mr. Mouroe and Mr. Pinckney, to Mr. Cevallos, of 28th January, 26th February, 8th and 16th March, 9th and 20th April, and 12th May, 1805. I am instructed by the President to propose to you an adjustment of all the differences between the two countries, by an arrangement on the following terms:

1. Spain to cede all her claims to territory, eastward of the Mississippi.

2. The Colorado, from its mouth to its source, and from thence to the northern limits of Louisiana, to be the western boundary; or, to leave that boundary unsettled for future arrangement.

3. The claims of indemnities for spoliations, whether Spanish, or French within Spanish jurisdiction, and for the suppression of the deposite at New Orleans, to be arbitrated and settled by commissioners, in the manner agreed upon in the unratified convention of 1802.

4. The lands in East Florida, and to the Perdido, to be made answerable for the amount of the indemnities which may be awarded by the commissioners, under this arbitration; with an option to the United States, to take the lands and pay the debts, or to sell the lands for the payment of the debts, distributing the amount received, equally, according to the amount of their respective liquidated claims among the claimants. No grants of land, subsequent to the 11th of August, 1802, to be valid.

5. Spain to be exonerated from the payment of the debts, or any part of them.

These proposals do not materially differ from those made to Don Pedro Cevallos, on the 12th of May, 1805. The President has seen nothing in any events which have since occurred, nor in the contents of your notes, which can afford a reason or a motive for departing from them. Of the motives for coming to an immediate arrangement, the urgency cannot escape your attention. The events which have recently occurred in a part of the territory, which you have informed me the king of Spain is willing to cede to the United States, those which are notoriously impending over the remaining part of that territory yet in the possession of Spain, make it indispensably necessary that the ultimate determination of your government in this negotiation should be acted on without delay. The explanations requested by your notes of the 6th December, and 8th January, of the motives of this government in the occupation of Amelia Island, have been given in the message of the President to Congress of the 13th instant, and cannot fail of being satisfactory to your government. You see it there distinctly and explicitly declared, that the measures which this government found itself under the necessity of adopting in relation to that island, were taken, not with a view to conquest from Spain. You well know that if Spain could have kept, or recovered the possession of it from the trifling force by which it was occupied, the American government would have been spared the necessity of the measure which was taken, and which was dictated by the duty of protecting the interests, as well of this country as of those with whom we are in friendly commercial relations, including Spain herself. But Spain cannot expect that the United States should employ their forces for the defence of her territories, or to rescue them for her exclusive advantage, from the adventurers who are projecting, and in the act of executing, expeditions against them, from territories without the jurisdiction of the United States. Neither can the United States permit that the adjoining territories of Spain should be misused by others, for purposes of annoyance to them.

Under these circumstances, the President is persuaded that you will perceive the necessity, either of accepting the proposals herein contained, as the basis of an adjustment of the long standing differences between the United States and Spain, or of offering such as can, by any possibility, be acceptable to this government without reverting to a course of proceeding, the only result of which must be further procrastination.

I pray you, sir, to accept the assurance of my very distinguished consideration.

(Signed)

JOHN Q. ADAMS.

## No. 10.

(Translation.)

*The chevalier don Luis de Onis to the Secretary of State.*

SIR,

I have received your letter of the 16th of this month, by which I see with great regret, that in acknowledging the receipt of those I had the honor to address to you on the 29th of last month, and the 5th and 8th of the present, you omit to answer them, and decline taking into consideration the indisputable facts and grounds, and the irresistible arguments advanced in them, in relation to each of the points embraced by the dispute set on foot by the government of the United States. You say it is useless again to discuss the facts, reasons, and arguments produced by the Spanish government in the years 1802 and 1803, and in 1805, the American plenipotentiaries and the special extraordinary mission, conjointly with him, having then replied to the different points of the notes of the Spanish ministry, in a manner capable of elucidating the respective rights of each of the two powers, and establishing the pretensions of the government of the United States; for proof of which you refer me to the letters of Messrs. Monroe and Pinckney, to his catholic majesty's minister, Don Pedro Cevallos, of the 28th of January, 26th February, 8th and 16th March, 9th and 20th April, and 12th May, 1805.

I think it proper to observe, in the first place, that although the facts, grounds, and arguments, then produced by the Spanish government, do not differ essentially from those stated in my notes, their irresistible and conclusive force is neither altered nor in any manner impaired. Truth is of all times; and reason and justice are founded on immutable principles. It is on these principles that the rights of the crown of Spain are founded to the territories eastward and westward of Louisiana, claimed by your government as making part of that province; rights of immemorial property and possession, never disputed, but always notorious and acknowledged by other nations.

In the second place, I must remark to you, that throughout the whole correspondence on this subject, between the ministry of the United States and that of his catholic majesty, there is not a single fact, or a single argument, that can affect the certainty, or decisive force of the facts, grounds, and reasons, which support and determine the aforesaid rights of the crown of Spain. There does not appear to be a single incident to give the smallest support to the pretensions of your government. All the vague positions on which it has been attempted to found them, have been refuted and dissipated by the Spanish government, by a demonstration so luminous and convincing, as to leave no alternative to reason to resist it.



To lay all this aside, and merely to say, "that it is a matter already thoroughly debated, on which nothing further essential can be urged, and that the American government insists on maintaining a contrary opinion," is to adopt an arbitrary cause, because, this opinion not being supported by any solid foundation, and being, as it is, diametrically opposite to the unquestionable result of facts, and to the most incontestable principles and arguments, does not, nor can it give to the United States any right to the pretensions they have formed. Neither can it be required, that the government of Spain should subscribe to this opinion, and renounce its rights to the territory which the United States wish to possess in the Spanish provinces bordering on those States, since that opinion, as I have already said, is altogether groundless and arbitrary, and since, on those rights, there neither does, nor can there, fall any doubt.

It is the sincere wish of his catholic majesty, that a just mode of amicably settling all pending differences may be adopted, and he has authorized me, for this purpose; but neither the powers he has conferred on me, nor my own sense of duty, permit me to enter into an arrangement which is not based upon the principles of common justice, combined in good faith with the suitable considerations of reciprocal utility or convenience. Being anxiously desirous of carrying the wishes and frank dispositions of my sovereign into execution, I suggested to you, in our last verbal conference, the expediency of your making to me such proposals as you might think fit, to reconcile the rights and interests of both powers, by a definitive arrangement of the differences pending between them. Since you communicated the present state of things to the President, you have proposed to me in your note a plan of arrangement or adjustment, embracing the question of boundaries, and that of indemnities, which is as follows:

To settle the former, you propose "that Spain shall cede all her claims to territory eastward of the Mississippi, (that is to say, the two Floridas;) and that the Colorada, from its mouth to its source, and from thence to the northern limits of Louisiana, shall be the western boundary of that province."

I have expressed in one proposal what you have stated in two, as both are reduced to the cession of territory by Spain. It is not only pretended that Spain shall cede both Floridas to the United States, but that she shall likewise cede to them, the vast extent of Spanish territory comprehended within the line following the whole course of the Colorado. I presume that it is the river Colorado of Natchitoches you speak of, and not of another bearing the same name, and which is still farther within the limits of the Spanish provinces. I leave it to you, sir, to examine the import of these two proposals, and to see whether they are compatible with the principles of justice, or with those of reciprocal utility or convenience. It is demanded of Spain to cede provinces and territories of the highest importance, not only to the eastward, but to the westward of Louisiana, and that without proposing any equivalent or compensation.

To settle the question of indemnities, you make the following proposals:

1. That indemnity for spoliations on American citizens, committed by Spaniards or by French within the jurisdiction of Spain, as well as for injuries sustained by American citizens by the interruption of the deposite at New Orleans, shall be settled by a joint commission, as agreed upon in the convention of 1802.

2. The lands in East Florida and in West Florida, to the Perdido, to be made answerable to the United States for the amount of the indemnities which may appear to be due by Spain to American citizens. on the settlement to be made by commissioners appointed according to the convention of 1802; it being at the option of the United States to take the lands and pay the amount of the indemnities according to the award on the claims, or to sell the lands and effect the payment with the proceeds of the sales. To this proposal you add, that all grants of land subsequent to the 11th of August, 1802, are to be null and void.

3. That Spain shall be exonerated from the payment of the debts, or any part of them.

Before I reply to these three proposals, I must repeat the uniform declaration of the Spanish government to the United States, that his catholic majesty is, and always has been, ready to settle the question of indemnities, with a view to the full satisfaction of the just claims of the parties interested; and that his majesty has always manifested the same sincere desire to settle definitively the question of boundaries to the satisfaction of both powers; and that if neither of these objects has been accomplished, it has not depended upon the government of Spain. The contrary is evident, beyond the possibility of denial, from the official correspondence between his catholic majesty's minister of state, and the plenipotentiaries of the American government who suspended and broke off the negotiation at Aranjuez, after having obstinately refused to accept the modifications founded on strict justice, which were proposed by the Spanish government.

I now proceed to state the most obvious and essential difficulties which render your three proposals for the settlement of indemnities inadmissible. I observe that in speaking of them, you only mention the indemnity for spoliations suffered by American citizens, and omit that which is equally due to Spaniards for spoliations committed on them by the citizens and authorities of this republic, in violation of the law of nations and the existing treaty. I also observe that you not only omit this indispensable basis of reciprocity and common justice, but propose the immediate cession of both the Floridas, which two Spanish provinces are to be retained by the United States, as an indemnity or payment of what may appear to be due by Spain to American citizens, according to the arbitration of the joint commission.

You cannot fail to admit, sir, that this proposal, independent of its injustice, is offensive to the dignity and honor of his catholic ma-

jesty. It is unjust, because it demands an indemnity or anticipated payment of claims yet to be proved and liquidated, while, at the same time, it provides for no correspondent indemnity or payment of what may be due by the United States to Spanish subjects. It is offensive to the dignity and honor of Spain, because, by the very fact of demanding this anticipation, a want of confidence in the integrity and punctuality in his catholic majesty's government, is manifested, whereas a single instance does not exist of Spain having failed in fulfilling her engagements, the most scrupulous exactness, good faith and strict observance of the point of honor having at all times invariably formed the distinguishing traits of her character. It, therefore, becomes unnecessary to point out to you the enormous disproportion between the value of the two Floridas, and that of the probable amount of the claims of American citizens on the government of Spain, after they are ascertained and liquidated. This disproportion will be still more enormous, when you consider that, in the first of the three proposals, to which I am now replying, is included the indemnity for spoliations on citizens of this republic by French cruizers and consuls on the coasts and in the ports of Spain, and by the tribunals of cassation in France, confirming the condemnation of American prizes.

It has been proved to mathematical demonstration, that Spain neither is nor can be responsible in any way for this indemnity. It is France which must be responsible, if she has not already satisfied the claim, as her government assures she has done.

Nor can I omit to declare to you, sir, that the pretension of annulling the grants of lands in Florida, since August, 1802, would be in opposition to all the principles of justice. These grants are made in a lawful manner, and by a lawful authority. Spain was the owner and peaceful possessor of those lands. She had then an indisputable right to make the grants you allude to, as she now has to the property of the territory afterwards forcibly taken possession of by the United States, since a violent dispossession never deprives an individual or nation of their lawful rights. I proceed to your last proposal, which is, that on the admission of those preceding, Spain shall be exonerated from all obligation to pay the debts or claims, which may be due to American citizens, on their settlement and liquidation by the joint commission. I conceive this to be the import of the expressions, stating that "Spain shall be exonerated from the payment of the debts or any part of them." This proposition is a corollary of the two preceding it, since if Spain should cede the two Floridas to the United States as an indemnity or compensation for the losses and injuries done to the citizens of this republic, she would necessarily be exonerated from this responsibility, the cession being, in such case, equivalent to a final discharge of the claims referred to. I go farther. Supposing your two last proposals for the definitive adjustment of the question of indemnities to be admitted and carried into effect, the one preceding, namely, that which refers this business to the award of commissioners, to be appointed by both governments,

ably to the convention of 1802, would be useless and contradictory. As none of the proposals offered by you, provide any indemnity for the losses and injuries caused to Spaniards, nor even makes any mention of them; and as by the two last proposals, if admitted, the losses and injuries sustained by American citizens, would be indemnified and compensated, according to the wishes of your government, and Spain would, consequently, be exonerated from all responsibility on this head, it is clear, that the business would then be settled and cancelled, and there would be no necessity for recurring to arbitration.

Finally, I cannot refrain from expressing my great concern, at not being able in any degree to reconcile the proposals you have made me by order of the President, with the inviolable principles of common justice; and on perceiving, that on the part of the United States, no basis is presented of a due reciprocity for the adjustment of the differences pending, the said proposals being altogether inadmissible.

I repeat to you, sir, that the king, my master, being desirous to meet the wishes of the United States in respect to the cession of the Floridas, although it is well known, how highly important those two provinces are to cover and secure the possessions of Spain in that part of America, his majesty is ready to cede them, provided he is compensated by an equivalent in territory belonging to the United States, and bordering on the Spanish possessions; and it is under this idea, that the powers and instructions I have from my government, are conceived. But you cannot fail to admit, that the plan of adjustment proposed, involves exorbitant and enormous sacrifices to the prejudice of Spain, since without offering any equivalent or compensation on the part of the United States, it requires not only the cession of both the Floridas, but also that of immense territories belonging to the Spanish monarchy westward of Louisiana; and, that in relation to the question of reciprocal indemnities, it only comprehends those respecting American citizens, omitting those due to the crown and subjects of his catholic majesty. This plan of adjustment would amount to the following one: "Give me all I wish to ask, and give up all you may justly claim or show is yours." I am, however, perfectly persuaded, that this neither is nor can be your intention, or that of your government; and that in making these proposals for an adjustment, your only object was to afford me an opportunity, to make such as you might consider just and admissible.

I shall, therefore, point out to you such as I conceive to be founded in justice and reciprocal convenience, and therefore cannot fail to meet the wishes of the United States.

1. "The dividing line between Louisiana and the Spanish possessions to be established in one of the branches of the Mississippi, either that of La Fourche, or of the Achafalaya, following the course of that river to its source. Spain to cede the two Floridas to the United States in full and complete sovereignty."

In case this proposal should not appear admissible to your government, the following may be substituted: "The *uti possidetis*, or state of possession in 1763, to form the basis, and the western line of division to be established from the sea, at a point between the rivers Carcasa and the Marmentas or Marmentao, running thence by Arroyo Hondo, till it crosses the Colorado of Natchitoches, between that post and Adaés, thence northward to a point to be fixed and laid down by commissioners respectively appointed for the purpose."

2. His catholic majesty, to ratify the convention of 1802, and both governments to abide by the decision of the joint commission on the question of indemnities, classing as such those which regard American citizens and the crown and subjects of his catholic majesty, for spoliations reciprocally committed to the period of the said convention, and thereafter to the date of the confirmation of the adjustment by the joint commission. Five or seven members to compose the commission, with this condition, that if they are five, each government shall respectively nominate a person for the fifth member, to be chosen by lot, provided they cannot agree on the person to be so chosen; the same to take place for the fifth, sixth, and seventh, if there be seven members; but the fifth, in the first instance, and the fifth, sixth, and seventh, in the second, shall neither be Spaniards nor citizens of the United States by birth or naturalization. They shall, moreover, be, by their profession and office, judges of the number of those subjects, who among maritime and commercial nations, are usually employed to judge and decide on matters connected with maritime law and the law of nations, whether in France, England, Russia, Austria, or the Netherlands. In both cases, the person so designated, to be provided with a certificate of the government of the country he belongs to, proving the opinion entertained of his integrity and capacity, his quality and actual profession as a judge in the matters referred to, and also the assurance, that permission shall be granted to him for discharging the duties of the commission, in case the said person shall be chosen by lot.

With these modifications suggested by prudence, impartiality, and the most perfect rectitude, and excluding, as is just, the indemnity for the spoliations committed on the commerce of this republic, by French privateers and consuls on the coasts and in the ports of Spain, and by the tribunals of cassation in France. The convention of 1802 to be ratified and carried into execution.

3. His Catholic majesty, to unite with the United States in using their best endeavors to obtain from France the correspondent indemnity for the spoliations just mentioned, in case that question has not already been settled between the French and American governments.

4. The government of the United States to engage to take effectual measures to prevent all hostile armaments in their ports and territory against the commerce and possessions of Spain, either by Americans or any other power, or by adventurers of any other nations, or by the rebels

of Spanish America; and for their due execution, the President to issue positive orders to all persons employed by the government, charging them, on their responsibility, to guard against any infraction or violation of them whatsoever, extending the same measures to the preventing of any vessels employed in cruising against the Spanish commerce or otherwise hostilely engaged against the government and subjects of his catholic majesty, from arming in, or entering armed, the harbors and waters of the United States. Every vessel of this description, found within the jurisdiction of the United States, to be seized without remission and subjected to the rigor of the law by the American officers and authorities; and the vessels and property so captured, belonging to the subjects of the crown of Spain, to be laid under attachment, and definitively delivered up to his majesty's minister, or the nearest Spanish consul, to be held by them at the disposal of the lawful owners. This proposal contains nothing beyond the obligations, already imposed by the laws of the United States, the law of nations, and the existing treaty. But as it is evident to you, and to the whole world, that abuses and infractions of these laws and solemn compacts, have been, and continue to be, frequently practised, it is absolutely necessary that suitable measures be adopted, fully and effectually to prevent the repetition of similar abuses and infractions.

By these four proposals, the rights and interests of both powers are reconciled, upon principles of manifest justice and reciprocal utility; they settle and terminate all pending differences, in my judgment, satisfactorily to both nations; and I must presume, that the President will view them in the same light, and substantially admit them. In case there be any other question of secondary, or minor importance, to be in like manner included in the general and definitive adjustment, it will be easy, and follow of course, after we have agreed on the most essential articles or points; we will then also determine the true import of the several propositions laid down, and explain each one of them with the necessary clearness, accuracy and precision.

If, however, you should find any difficulty or obstacle to the acceptance of the proposals, I have now the honor to make to you, and are of opinion, that by any other mode we may attain the desired object, without deviating from the fundamental principles and basis of justice and reciprocal convenience, I will, with great pleasure, be ready to adopt it, provided it be compatible with the powers given me by the king, my master. In this view, you can propose such changes or modifications, as you may see fit, as are calculated to remove all difficulties on both sides, and reconcile the rights, interests and wishes of both powers.

In the mean time, I hope that the course pursued by the President (*en la marcha de su conducta*) will correspond with the sentiments and uniform profession of amity and perfect harmony exist-

ing between his majesty and the United States; and I am therefore constrained to reclaim and protest formally, as I now do, against all measures whatsoever, injurious to the rights of the crown of Spain, and to renew, as I hereby do, the protest already made against the occupation of Amelia Island, and against the orders to occupy Galvezton, inasmuch as the United States, having no right whatever, either to the said island, or to Galvezton, they neither had, nor could have, a just motive or cause to sanction similar acts of violence in the midst of peace.

I await your answer to this note, in order that we may accelerate the moment of agreeing on just and fit measures for carrying the definitive settlement of all pending differences into effect.

In the mean time, I renew to you, sir, the assurances of my constant respect.

God preserve you many years.

(Signed)

LUIS DE ONIS.

*Washington, 24th January, 1818.*

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No. 11.

(Translation.)

*The same to the same.*

SIR,

The multiplicity of business which I believe has, and still does engage your attention, from the necessity of preparing and laying before the Congress, the papers and information called for on different subjects, must assuredly have prevented you from replying as yet to my note of the 24th of last month; it is, therefore, unnecessary for me to trouble you, by trespassing on your attention, to urge the importance of your answer, as I feel assured, you are as fully aware of it as I am. But the earnest wish I have to accelerate the negotiation that has been opened, and thereby to come to a final settlement of the differences pending between his catholic majesty's government and yours, impels me to take this step. I therefore request you, sir, to be pleased to inform me, as soon as you possibly can, whether the proposals offered in my aforesaid note come up to, or approach the wishes of this republic; and if, with the view of satisfying them, you can devise another just mode, calculated to reconcile the rights of both nations upon some principle of reciprocal utility and convenience, I hope you will communicate it to me, in full confidence, that I

shall not hesitate a moment to accede to any modification or expedient, founded on a basis of acknowledged justice, and mutual utility, because it is to such a basis, that all the instructions and powers I have received from my sovereign refer.

The United States having manifested a wish to obtain the Floridas, his catholic majesty has condescended to accede thereto, as a proof of his friendship and high consideration for the United States, and has authorized me to stipulate the cession of those two provinces for an equivalent of territory westward of the Mississippi. Having proved, on the part of his majesty's government, by the most complete evidence of which moral facts are susceptible, and by a conviction in no wise inferior to that of mathematical truths, that the proper boundaries of Louisiana, eastward of the Mississippi, are defined by the course of that river, and thence by the Iberville and the lakes Maurepas and Pontchartrain; and that to the westward, they never did, nor could extend beyond the rivers Carcasu and Marmentas or Marmenteo, running between Natchitoches and Adaes, across Red River, and thence northward to a line not yet fixed, and to be settled by commissioners to be appointed by both governments, it is clear, that the proposals offered in my note for the final settlement of the question of boundaries, cannot fail to appear advantageous to your government, and satisfactory to the just wishes of the United States. But if, for their greater satisfaction, you can point out an expedient by which the said proposals may be still further modified, without detracting from the acknowledged principles of common justice and reciprocal convenience, I am ready to attend to, and stipulate it immediately, if it comes within the sphere of my powers and instructions; and in case it should not, by presenting, perchance, combinations which could not be foreseen by his catholic majesty, I will immediately despatch a courier to Madrid, to inform my government of the demands of yours, and request more ample powers adapted to them.

The question of indemnities can be attended with no difficulty. The Spanish government has always been willing to give due satisfaction for the losses and injuries sustained by citizens of this republic, and committed by Spaniards, contrary to the law of nations and the existing treaty, but it cannot relinquish its claim to comprehend, in like manner, in the adjustment of those losses and injuries, such as have been committed by citizens and authorities of this republic, on the crown and subjects of Spain, in violation of the same right and treaty. Your government, sensible of the justice of this demand, cannot fail to accede to it; thus, by ratifying the convention agreed on in 1802, as I have already proposed to you, the question of indemnities will be easily settled and determined.

The king, my master, being desirous of giving the United States and the whole world, incontestable proofs of the rectitude and sincerity of his dispositions, and of his love of justice and good faith, is ready to submit all the questions embraced by the pending differences, to the arbitration of one or more of the powers of Europe, in whom



the United States may have the greatest confidence, they and his majesty respectively engaging to abide irrevocably by the decision of such arbitration. In cases where justice alone is sought for, this reference must be particularly desirable, and has been frequently resorted to, as well by individuals, as by the most respectable nations, on controverted questions.

The British government, on being informed of the difficulties attending the negotiation pending between Spain and the United States, made an offer of its mediation for the purpose of reconciling them, and the President has not been pleased to accept it, as I have been lately informed by the minister of England to these States. From this refusal, I am to infer, that the President is willing, on his part, to remove all the obstacles which oppose the prompt and happy termination of the negotiation pending, and under this impression, which is due to the uprightness, rectitude, and good faith, of the American government, I flatter myself, that it will not be necessary to have recourse to the mediation or arbitration of friendly or neutral powers, to settle and terminate on principles of justice, the existing differences between the United States and Spain; and if unfortunately this should not be the case, I also flatter myself, that your government will approve of one of those modes, as being dictated by a sincere love of peace and justice due to such occasions.

I therefore hope, sir, that you will reply, as soon as possible, to the proposals made in my last note, and communicate to me whatever you may think most conducive to the happy termination of the pending negotiation, and still further to strengthen the bonds of friendship and good understanding between the two nations.

In the mean while, I have the honor to renew to you, the assurances of my respect, and I pray God to preserve you many years.

(Signed)

LUIS DE ONIS.

*Washington, 10th February, 1818.*

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(No. 12.)

*The Secretary of State, to Don Luis de Onis, Envoy Extraordinary and Minister Plenipotentiary from Spain.*

*Department of State, March 12th, 1818.*

SIR,

The admission in your letter of the 24th of January, that all the facts, grounds, and arguments, alleged in your previous notes of 29th December, and of 5th and 8th January, in support of the pretensions of your

government, upon the several points of difference which have so long subsisted between the United States and Spain, are essentially the same as had already been advanced and discussed at the period of the extraordinary mission to Spain, in 1805; while it justifies the reluctance, on the part of the American government, manifested in my letter of the 16th January, to the renewal of an exhausted discussion, cannot but excite some surprize, as comporting so little with the professions of the earnest desire of your government to bring those differences to a speedy and happy termination, which have been so strongly and so repeatedly expressed, as well in your notes, as in the recent communications from Don Francisco Pizarro to the minister of the United States at Madrid. The observation, that truth is of all times, and that reason and justice are founded upon immutable principles, has never been contested by the United States; but neither truth, reason, nor justice consist in stubbornness of assertion, nor in the multiplied repetition of error. I referred you to the letters from the extraordinary mission of 1805, to Don Pedro Cevallos, for an ample and satisfactory refutation of the supposed facts, grounds, and arguments [now reproduced by you. You reply by telling me, that "there does not appear to be a single incident to give the smallest support to the pretensions of my government; that all the vague positions on which it has been attempted to found them have been refuted and dissipated, by the Spanish government, by a demonstration so luminous and convincing, as to leave no alternative to reason to resist it." And you, more than once, intimate, that the American government does not, itself, believe in the validity of the statements and arguments used by its ministers, in support of the claims of the United States, as asserted by them.

To language and sentiments such as these, the government of the United States cannot reply; nor can it, without an effort, continue at all a discussion sullied by such unworthy and groundless imputations.

I am directed by the President to confine the observations upon your late notes, to those parts of them which have relation to the essential subjects of controversy between the two nations.

To give a single instance of that course of argument, which you represent as equivalent to mathematical demonstration in favor of Spain, it will be sufficient to refer to your assertions, in relation to the question of the eastern boundaries of Louisiana, as retroceded to France by the treaty of St. Ildephonso, in 1800, and ceded by France to the United States in 1803. The claim of the United, under that cession to the territory, east of the Mississippi, as far as the river Perdido, rests, as you well know, upon the words in the two treaties, describing the colony or province of Louisiana, ceded by them, as having the same extent, not only that it had at the time of the retrocession in the hands of Spain, but also *that it had when France possessed it*, and such as it should be, after the treaties subsequently entered into between Spain and other states. You know also with what force it was urged by the ministers of the United States at Aranjuez, in 1805, that those words, referring to the primitive possession of the province by France, could have had no other meaning than that of extending the retrocession to the Perdido, because the province had always had that extent when in the possession of France. And what is your reply to this argument, which you are pleased to include under the general censure of vague and groundless positions? It is no other than the supposition of a treaty of 1764, by virtue of which you say

France ceded the western remnant of Louisiana to Spain, a year after having ceded the eastern part of it, from the Mississippi to the Perdido, to England. With the aid of this treaty, you are enabled, first, to discover an interval of time between the two cessions, and during which France possessed Louisiana, bounded eastward by the Mississippi; and, secondly, to include this treaty between *Spain* and *France* among those described in the article of the treaty of St. Ildephonso, as “the treaties subsequently entered into between *Spain* and *other states*.”

There is reason to believe that no such treaty of 1764 ever existed; that the cessions of Louisiana, westward of the Mississippi, to Spain, and eastward of that river to the Perdido to England, were made by France both on the 3d of November, 1762, is certain, and that the acceptance by the king of Spain of the cession made to him, took place on the 13th of the same November, 1762; the proof of which is in the very order from the king of France to L'Abbadie, for the delivery of the province to the officers of the king of Spain. The province had never belonged to France a single day, without extending to the Perdido. Nor can it be necessary to remind you that the very treaty of cession, by which France surrendered her possession of Louisiana to Spain, cannot be comprehended in the description of treaties *subsequently* entered into between *Spain* and *other states*.

As this simple reference to a notorious and unquestionable fact annihilates all that course of reasoning upon which your understanding rejects all doubt, so a recurrence to another fact, equally notorious, replies as decisively to your appeal to the treaty of 6th February, 1778, between the United States and France. You say that in the year 1800, France could not have acquired any territory east of the Mississippi, without a *monstrous violation* of that treaty, forgetting that that treaty, and all its obligations upon France, had, before the year 1800, ceased to exist.

The fact, that the cessions of the two parts of Louisiana, to Spain and England, were made on the same day, may serve no less as a reply to all the verbal criticisms, so gravely urged by Mr. Cevallos, and now repeated by you, on the force of the terms *retrocede* and *retrocession*, used in the treaty of St. Ildephonso. The plain import of the words is neither more nor less than giving back, restoring. It does not, and cannot be made to imply, that both the parties to the restoration must, of necessity, be the same as both the parties to the grant. They only imply that the object and the party granting, or the party receiving it, as restored, are the same. To use an illustration from the concerns of individual life—Suppose A, by two separate deeds, grants half an acre of land to B, and the other half to C. B, by subsequent purchase obtains the half acre granted to C, and then regrants the whole acre back to A. By whatever denomination the two half acres may have been called, in the interval between the first grant and the restoration, B might, with the most perfect propriety, be said to retrocede the whole; and if in the act of restoration the acre should be called by the same name, and expressly described as having the same extent as when it had been first owned by A, with what shadow of justice could B pretend that his regrant was only of the half acre he had first received from A, because the other half acre had, in the interval, been called by another name, and for some time owned by another person? That the term *retrocession*, is in common use, in

this sense, take the following passage from the English translation of Alcedo's Dictionary.

"By a treaty in 1783, Great Britain *retroceded* to Spain all the territory which both Spain and France had ceded to Great Britain in 1763."

There would then be nothing in the terms *retrocede* or retrocession, which could limit the territories restored by Spain to the boundaries under which she had first received part of them from France; even if the original cessions of the two parts had been made at different times; and even if those words, "*with the same extent it had when in the hands of France,*" had not been inserted in the treaty of St. Ildephonso. But when it is considered that the cessions by France, of the two parts of Louisiana were made to Spain and to England on the same day, when we know that the cession of the part ceded to England, had been made for the benefit of Spain; as it was an equivalent for the restoration by England of the island of Cuba to Spain, and when we seek for any possible meaning to the words referring to the extent of Louisiana, when before owned by France, to our minds, sir, the conclusion is irresistible, that the terms *retrocede* and retrocession can have, in this case, no other meaning than that for which we contend, and that they include the giving back to France the whole of Louisiana, which had ever belonged to France, and which it was, at the time of the signature of the treaty of St. Ildephonso, in the power of Spain to restore.

By the words in the third article of the treaty of St. Ildephonso, adopted in the treaty of cession of 1803 to the United States, Spain *retrocedes* to France the *colony* or *province* of Louisiana, with the same extent that it "now has in the hands of Spain, and that it had when France possessed it, and such as it ought to be after the treaties subsequently entered into between Spain and other states." At the negotiation of Aranjuez in 1805, your alleged treaty of 1764, never occurred to the imagination of M. Cevallos, as one of these subsequent treaties; for, after citing this clause of the article, he says, in his letter to Messrs. Pinckney and Monroe, of the 24th February, 1805, "the treaties here alluded to, are not, nor can be others than those of 1783, between Spain and England, and 1795, between Spain and the United States," The American ministers, in their answer of 8th March, 1805, explicitly agree in opinion with Mr. Cevallos on this point; and your intimation of a treaty of 1764, to which you suppose the clause also to apply, is as incompatible with the pretensions of your own government in 1805, as with those of the United States at this day.

To account for the peculiar phraseology used in this description, inserted in the third article of the treaty of St. Ildephonso, we must advert to the peculiar situation of the territory to be conveyed, and to what *must* have been the intention of the parties. It was a colony or province to be restored; and therefore the object of France could have been no other than to obtain the restoration of the whole original colony, so far as it was in the power of Spain to restore it. But there was a part of the original colony, which had been ceded by France to England, which had, in process of time, become a part of the United States, and which not being then in the hands of Spain, she could not restore. There was another part which had been ceded by France, directly to Spain, which still remained in her hands, but subject to certain conditions stipulated by Spain, in a

treaty with the United States; and there was a third part which France had ceded to England, in 1762, but which had afterwards fallen into the hands of Spain, and which she was equally competent to restore, as if it had been ceded by France to herself. As the boundaries of this colony or Province never had been precisely defined, and had been, from its first settlement, a subject of dispute between France and Spain, the parties had no means of recurring to any former definition of boundaries, to carry their intention into effect; as they had no geographical lines or landmarks to which they *could* recur, they assumed their definition from circumstances incidental to the present and past time. If the intention had been to cede back the *province*, only with the extent it actually had in the hands of Spain, the parties would have said so, and omitted the other clause, which, in that case, would have been not merely superfluous, but tending to perplex that which would have been clear without it. If it had been intended that Spain should restore to France, only what she had received from France, nothing could have been more clear and easy than to have said so; but then, the reference to the extent of the *colony*, when France possessed it, would have been not merely absurd, but contradictory to that intention. The very use of both the terms, *province* or *colony*, shows that the parties were looking to the original state, as well as to the actual condition of the territory to be restored. Louisiana, the actual Spanish *province*, was one thing, and Louisiana, the original French *colony*, was another; the adoption of both the words, is of itself a strong presumption, that the intention was to restore, not only the actual province, but so much of any other province, as was then in the hands of Spain, and had formed part of the original French colony.

Assume the intention of the parties to have been that for which we contend, and under the existing circumstances they could scarcely have expressed it by any other words than those which are found in the article. Assume that they had any other intention, and you can find no rational meaning for their words. The province was to be restored, with the extent it actually had in the hands of Spain: the colony was to be restored, with the extent it had when formerly possessed by France. Spain could not restore the parts of the original colony which were not in her actual possession, and which already formed parts of the western states and territories of this Union; but she could restore that part of the colony, of which she had become possessed by a treaty of 1783, with Great Britain. Mr. Cevallos urged with some earnestness, that the first clause having marked the extent of the colony or province, such "as it then had in the hands of Spain," it would be inconsistent and absurd to suppose, that the words "and that it had when France possessed it," could be intended to mark a greater extent, because it would be saying in one breath, that the cession was of the *same* extent, and of *more* than the same extent, that it had in the possession of Spain. But there is no absurdity or inconsistency in modifying, by one clause of a definition, an extent described in another clause of the same definition; no more than, in the description of a surface, the line in breadth is inconsistent with the line in length. According to this argument of Mr. Cevallos, the words "and that it had when France possessed it," had no meaning at all; they merely repeated, what had been fully and completely expressed by the preceding clause; but if they had no meaning, what possible motive could the parties have for inserting them, when it must have been perfectly familiar to the me-

mory of both, that the extent of the province or colony, when in the hands of France, had included West Florida to the Perdido, which territory was also then in the actual possession of Spain. If it were possible to suppose that the ministers of France and Spain, in the very article defining the extent of the country to be conveyed, could have been so careless as to admit an idle waste of words, the very composition of this article carries internal evidence with it, that no such improvidence is imputable to those by whom it was drawn up. The reference to the extent of the colony in the primitive possession of France, could not be to a time when the property of it had been no longer hers. It could not be to say over again, what had been said in the immediately preceding clause: every word of the description carries with it evidence of deep deliberation and significancy. The first clause marks the intention of the parties, by the incident of actual possession by Spain; all of which was to be restored; the second clause modifies by enlarging the extent, from the incident of original possession by France; and the third clause modifies, by restricting the grant to the conditions which Spain had stipulated concerning the territory, with other states. Altogether, the clear and explicit meaning of the whole article is, that Spain should restore to France as much of old French Louisiana as she had to restore; but under such restrictions as the engagements contracted by Spain with other powers required of her good faith to secure.

Let us pass to the consideration of the western boundaries of Louisiana.

With the note of Messrs. Monroe and Pinckney to Don Pedro Cevallos, of 28th January, 1805, a memoir upon these boundaries was presented to that minister, proving that they extended eastward to the Perdido, and westward to the Rio Bravo, or Grande del Norte. They observed in that note, that "the facts and principles which justify this conclusion, are so satisfactory to their government, as to convince it that the United States have not a better right to the island of New Orleans, under the cession referred to, than they have to the whole district of territory thus described."

In their note of the 20th April, 1805, to the same minister, replying to his argument in support of the pretensions of your government with regard to those limits, they lay down and establish, by a chain of reasoning, which neither Mr. Cevallos, at the time, nor your government, at any period since, have ever attempted to break, three principles, sanctioned alike by immutable justice, and the general practice of the European nations, which have formed settlements and held possessions in this hemisphere; and by the application of which to the facts also stated in their note, this question of the western boundary ought then to have been, and, eventually, must be settled. These principles were,

First. "That when any European nation takes possession of any extent of seacoast, that possession is understood as extending into the interior country, to the sources of the rivers emptying within that coast, to all their branches, and the country they cover, and to give it a right in exclusion of all other nations to the same."

Secondly. "That whenever one European nation makes a discovery and takes possession of any portion of this continent, and another afterwards does the same at some distance from it, where the boundary be-

tween them is not determined by the principle abovementioned, that the middle distance becomes such of course."

Thirdly, "That whenever any European nation has thus acquired a right to any portion of territory on this continent, that right can never be diminished or affected by any other power, by virtue of purchases made by grants or conquests of the natives, within the limits thereof."

The facts stated in this last mentioned note, and to which these principles were applied in support of the claim of the United States, under the cession of Louisiana by France to them, were,

1. That the Mississippi, in its whole length to the ocean, was discovered by French subjects from Canada, in 1683.

2. That La Salle, a Frenchman, with a commission and authority from Louis XIV., discovered the bay of St. Bernard, and formed a settlement there, on the western side of the river Colorado, in the year 1685, and that the possession, thus taken, in the bay of St. Bernard, in connexion with that on the Mississippi, had always been understood, as of right it ought, to extend to the Rio Bravo.

3. That the boundary, thus founded upon possession, was described as forming the limits of Louisiana, in the grant by Louis the XIVth, to Crozat, in 1712.

4. That it was supported by the testimony of the historical writers, Du Pratz and Champigny; by a historical and political memoir on Louisiana, written by the count de Vergennes, the minister of Louis the XVIth; by a chart of Louisiana, published in 1762, by Don Thomas Lopez, geographer to the king of Spain; and by a map of De Lisle, of the Academy of Sciences, at Paris, revised and republished there in 1782.

To these principles, thus clear, equitable and explicit—to these facts, thus precise, authentic and unsophisticated, what was opposed by Don Pedro Cevallos at that time, and what is now alleged by you?

Mr. Cevallos began by admitting that the western limits of Louisiana had never been exactly fixed; and alleged, that in the year 1690, five or six years after the possession taken and the settlement formed by La Salle, captain Alonzo de Leon, under a commission from the viceroy of Mexico, examined the bay of Espiritu Santo, (St. Bernard,) took possession of the territory, and founded the mission of *St. Francisco de Texas*. Mr. Cevallos asserted, that it *would be very easy* to make it appear, that France never had claimed this extent for Louisiana; but he did not make it appear. He also said that if France had claimed it, Spain had never recognized, and was not bound to acknowledge, the claim.

Mr. Cevallos said that the limits between Louisiana and the Texas had always been *known*, even when the French possessed Louisiana; but he had just before acknowledged, that they had never been fixed. He spoke of missions founded near the beginning of the last century by the venerable Margel, of the order of St. Francisco; he alluded to plans and documents and historical relations, which were not to be found in his department, but many of which, he added, were in the department of the interior, besides those which were in the viceroyalty of Mexico. But he never pretended a possession, by Spain, of the territories in question, of an earlier date than 1690.

And what are these plans, and documents, and historical relations, which, after the lapse of thirteen years, you have drawn forth from all

the archives of Spain and all the historical disquisitions, upon the discovery and conquest of the New World? Is it to that catalogue, biographical and geographical, of Spanish adventurers, and of the numberless regions explored by them in the sixteenth century, which swells your note of the 5th of January, that we are to look for the limits of Louisiana and Texas? Or is it to that "Royal order issued by Philip the Second, enjoining the extermination of all foreigners who would dare to penetrate into the Gulf of Mexico," by virtue of which the viceroy fitted out the expedition to scour the country and *hunt out* the French of La Salle's settlement; is it to that royal order that you appeal for proof of the prior title of Spain? It is even so. But as the voyages of Ponce de Leon in 1511, of Francisco de Garay in 1518, and of Hernando de Soto in 1538, have no more bearing upon this question than the voyages of Christopher Columbus and Sebastian Cabot, so you must be sensible that the royal exterminating order of Philip the Second, if it proved any thing, would prove fatal to the whole province or colony of Louisiana. If that order *could* have been carried into execution, no such colony as that of Louisiana could ever have been established by France. That order, and any proceeding of the viceroy of Mexico under it, can no more affect the right of the United States to the limits marked by the settlement of La Salle, than it can impair their title to the island of New Orleans. Far more honorable would it be, sir, to the character of your nation and the credit of your government, to bury, in the profoundest oblivion, the memory of that atrocious order, than at this day to produce it, for the purpose of bolstering up a title, for which you have in vain ransacked the records of the Spanish monarchy to discover a better support.

To the efficacy, however, of this royal order, your whole argument, in behalf of the pretensions of your government, perpetually recurs; for although in some passages of your note, you appear disposed to allow to the colony of Louisiana, at least the eastern banks of the Mississippi, yet you are as frequently shrinking even from this concession, and representing the whole colony as an encroachment upon the dominion of Spain; at one time representing it as a profound stratagem of Louis the fourteenth, seizing with rapacious avidity, the unsuspecting moment of confidence of his grandson Philip the fifth, while placing him upon the throne of Spain; and at another, holding it up as the act of a disordered imagination of the same Louis fourteenth, manifested in the grant of 1712, to Crozat. This grant you pronounce to be absurd and completely despicable; but for what reason it is not easy to conjecture. It certainly does not favor the pretensions of your government, and it has none of the exterminating features of the royal order of Philip the second; but we consider it, as it has always been considered by the world, as a document, not only indicative of sound judgment and discretion, but as marking the limits of Louisiana, as always claimed by France, and transferred, as relates to the western limits, with her title to that province, to the United States.

It is remarkable, that in imitation of Mr. Cevallos, you also, after repeatedly insisting that the boundaries of Louisiana were well known, and always acknowledged by France, finally conclude by admitting, that they never were fixed or agreed upon. You repeat, time after time, that the French *never disputed* the right of Spain to all the territory westward of the Mississippi, while you cannot deny the settlement of La Salle at the



Bay of St. Bernard, in 1684; nor that the French settlements of Natchez and Natchitoches were made and maintained in spite of all the military expeditions, rigorous executions, and exterminating orders, which the viceroys of Mexico could send against them.

We may admit that so long as the Spanish viceroys could exterminate every foreigner who dared to penetrate into the Gulf of Mexico, they had the royal order of Philip the second for so doing. The bull of pope Alexander the sixth is a document of still earlier date, and at least of less disgusting import, upon which Spain once rested her claims to yet more extensive dominion in this western world. With equal show of reason, and with less outrage upon the rights of humanity, might you have alleged that bull as the incontrovertible proof of the Spanish claims, as to bring forth at this day, for its only substitute, that royal order of Philip the second.

You know, Sir, and your own notes furnish, themselves, the most decisive proofs, that France, while she held the colony of Louisiana, never did acknowledge the Mississippi as the western boundary of that province. The claim of France always did extend westward to the Rio Bravo, and the only boundaries ever acknowledged by her, before the cession to Spain of 3d Nov. 1762, were those marked out in the grant from Louis fourteenth to Crozat. She always claimed the territory, which you call Texas, as being within the limits, and forming part of Louisiana; which in that grant is declared to be bounded westward by New Mexico, eastward by Carolina, and extending inward to the Illinois and to the sources of the Mississippi, and of its principal branches.

Mr. Cevallos says that these claims of France were never admitted nor recognized by Spain. Be it so. Neither were the claims of Spain ever acknowledged or admitted by France; the boundary was disputed and never settled; it still remains to be settled; and here is a simple statement of the grounds alledged by each of the parties in support of their claims:

*On the part of the United States.*

1. The discovery of the Mississippi, from near its source to the ocean, by the French from Canada, in 1683.
2. The possession taken and establishment made by La Salle, at the Bay of St. Bernard, west of the rivers Trinity and Colorado, by authority from Louis fourteenth, in 1685.
3. The charter of Louis fourteenth to Crozat, in 1712.
4. The historical authority of Du Pratz and Champigny, and of the Count de Vergennes.
5. The geographical authority of De Lisle's map; and especially that of the map of Don Thomas Lopez, geographer to the king of Spain, published in 1762.

These documents were all referred to in the letter from Messrs. Pinckney and Monroe to Mr. Cevallos, of 20th April, 1805. Since which time, and in further confirmation of the same claims, the government of the United States are enabled to refer you to the following.

6. A map published by Homann at Nuremberg, in 1712.
7. A geographical work, published in 1717, at London, entitled Atlas Geographicus, or a Complete System of Geography Ancient and Modern, in which the map of Louisiana marks its extent from the Rio Bravo to the Perdido. In both these maps, the fort built by La Salle is laid down on the spot now called Matagorda.

8. An official British map, published in 1755, by Bowen, intended to point out the boundaries of the British, Spanish and French colonies in North America.

9. The narratives published at Paris, of Hennepin, in 1683; of Tonti, in 1697; and of Joutel, in 1713.

10. The letter from colonel La Harpe to Don Martin D'Alarconne, of 8th July, 1719. (A. 1. B. 2.)

11. The order from the French governor of Louisiana, Bienville, to La Harpe, of 10th of August 1721. (C. 3.)

12. The geographical work of Don Antonio de Alcedo, a Spanish geographer of the highest eminence; this work and the map of Lopez having been published after the cession of Louisiana to Spain, in 1762, afford decisive evidence of what Spain herself considered as the western boundary of Louisiana, when she had no interest in contesting it against another state. (D. 4.)

*On the part of Spain.*

1. The voyages of Ponce de Leon, Vasquez de Ayllon, Panfilo de Narvaez, Hernando de Soto, Luis Moscoso, and other Spanish travellers, in the sixteenth century, who never made any settlement upon any of the territories in question; but who travelled, as you observe, into countries too tedious to enumerate.

The establishment of the new kingdoms of Leon and Santander, in 1595, and the province of Coahuila, in 1600.

3. The province of Texas, founded in 1690.

Here you will please to observe begins the conflict with the claims of France to the western boundary of Louisiana, transferred by the cession of the province to the United States. The *presidios*, or settlements of Las Texas were, by your own statement, adverse settlements to that of La Salle, who, six years before, had taken formal possession of the country in the name of, and by authority of a charter from, Louis fourteenth. They were preceded by an expedition from Mexico the year before, that is 1689, to *hunt out* the French remaining of the settlement of La Salle. Now, what right had the viceroy of Mexico to hunt out the French who had formed a settlement under the sanction of their sovereign's authority? You will tell me that from the time when Santa Fe, the capital of New Mexico, was built, *Spain considered* all the territory east and north of that province, as far as the Mississippi and the Missouri, as her property; that the whole circumference of the Gulf of Mexico was hers; and that Philip the second had issued a royal order to exterminate every foreigner who should dare to penetrate to it; so that the whole question of right between the United States and Spain, with regard to this boundary, centres in this—the naked pretension of Spain to the whole circumference of the Gulf of Mexico, with the exterminating order of Philip the second on one side, and the actual occupancy of France, by a solemn charter from Louis fourteenth, on the other. Well might Messrs. Pinckney and Monroe write to Mr. Cevallos, in 1805, that the claim of the United States to the boundary of the Rio Bravo was as clear as their right to the island of New Orleans!

In the letter of Messrs. Pinckney and Monroe to Mr. Cevallos of the 20th of April 1805, referring to the historical documents relative to the discovery and naming of Louisiana, they state that the Mississippi was discovered, with "its waters and dependant coun-

try as low down the river as the Arkansas, by the Sieurs Joliet and Marquette, from Canada, as early as the year 1673, and to its mouth by the father Hennepin, in 1680; and by De la Salle and Tonti, who descended the river with sixty men to the ocean, and called the country Louisiana, in 1682; and in respect to the bay of St. Bernard in 1685." That this was done at these periods in the name and "under the authority of France, by acts which proclaimed her sovereignty over the whole country, to other powers in a manner the most public and solemn, such as making settlements and building forts within it."

To this Mr. Cevallos made no reply in 1805. But you, after giving an account of the murder by Spaniards of Rene de Laudonniere, observe, that "the story related of a Recollet Friar, called father Hennepin is still more *ridiculous*, who is said to have been made a prisoner by the Indians at the time they were at war with the French of Canada, and taken to the Illinois, whence he was occupied in exploring the country as far as the banks of the river St. Louis or Mississippi, of which he took possession in the name of Louis the Fourteenth, and gave it the name of Louisiana, (doubtless in his secret thoughts and by a mere mental act.)" You add, that these accounts and others of the like nature are "contemptible in themselves even although the facts they relate were authentic, since nothing can be inferred from them that can favor the idea started by those who speak of those transient adventures and incursions."

I have in my possession, sir, and it shall, when you please, be subject to your inspection, a volume, published at Paris in the year 1683, the title of which is, "Description de la Louisiane, nouvelle-ment decouverte, au Sud-Ouest de la Nouvelle France, *par ordre du Roy*, dediee a sa majeste. Par le R. P. Louis Hennepin, Missionnaire Recollet et Notaire apostolique." (Description of Louisiana recently discovered to the southwest of New France, *by order of the king*. Dedicated to his majesty by the Rev. Father Louis Hennepin, a Recollet missionary and apostolic notary.) In the preface to the king, the author says—"Sire, I should never have dared to take the liberty of offering to your majesty, the narrative of a new discovery, which the Sieur de la Salle, governor of Fort Frontenac, my companions and myself have just made to the southwest of New France, if it had not been undertaken by your orders." "We have given the name of Louisiana, to this great discovery, being persuaded that your majesty would not disapprove that a part of the earth watered by a river of more than eight hundred leagues, and much greater than Europe, which may be called the delight of America, and which is capable of forming a great empire, should henceforth be known by the august name of Louis, that it may thereby have a sort of right to your protection, and hope for the advantage of belonging to you."

Now, sir, permit me to request you to compare this authentic statement, with that perversion of all historical evidence, by which you have styled and have attempted to make the story of father Hennepin's discovery of Louisiana ridiculous. Here is a book published at

Paris, dedicated to Louis the XIVth, at the most glorious period of his reign, declaring to the world the discovery of Louisiana—declaring that it was made by his orders, and called by his name, for the express purpose of entitling it to become his property. Is this contemptible? Is this a secret thought, or a mere mental act? Is this a transient adventure or incursion? And after calling this information too vague and uncertain, upon which to found a title, can you talk of the rights of possession derived to Spain from the travels of Ponce de Leon, Francisco de Garay, and Vasquez de Ayllon?

Your view of the expeditions and adventures of La Salle, is equally remote from the real and well authenticated facts. "Let us see," you say, "what importance can be attached to what is said of Bernard [Robert] de la Salle, who in 1679 descended from Canada to the Mississippi, and there built Fort *Crevecoeur* according to Mr. du Pratz, or Fort Prudhomme, according to others. *What is certain*, amounts to this, that he only made a rapid incursion from Canada to the Mississippi, as any other adventurer might do, *crossing the territories of another nation*; that he returned to Quebec, without any further result, than that of an imperfect exploration of the country, and that he embarked at Quebec for France, from whence he returned in 1684, with an expedition composed of four vessels, commanded by captain Beaujeu to explore the mouth of the Mississippi," &c. In this passage you represent,

1. The facts attending the expedition of La Salle as *uncertain*.

2. That he only made a rapid incursion, as a private adventurer, and, so far as related to his exploring expedition, with an imperfect result.

3. That he only went from Canada to the Mississippi, and thence returned to Quebec, whence he embarked for France.

4. That he only crossed the territories of another nation, (meaning Spain.)

I examine this part of your note, with a minuteness, which will be tedious to you, because it is precisely upon the character of La Salle's expeditions that the grant of Louisiana to Crozat, by Louis the XIVth, is in express terms founded; because you have represented these expeditions in the colours thus marked, with the avowed purpose of weakening the original title of Louisiana, and because you know that the characters, diametrically opposite, which I shall now prove to have belonged to them, must lead to the result of an incontestable title, in France, and consequently, at this time, in the United States. I answer the above insinuations, in the order in which they have been stated.

There are three narratives of the expeditions of La Salle, all published at Paris, by persons who accompanied him in them.

The first in 1683, by father Louis Hennepin; the same volume from which I have already presented you an extract.

The second by the chevalier *Tonti*, governor of Fort St. Louis, at the Illinois, published in 1697.

The third by Joutel, who was with him in his last expedition, and almost by his side when he fell by the hands of an assassin.

Of all the heroic enterprizes, which in the sixteenth and seventeenth centuries signalized the discoveries of Europeans upon this continent, there is not one, of which the evidence is more certain, authentic, and particular, than of those of La Salle.

La Salle, after having residing many years in Canada, as governor of fort Frontenac, formed the project of exploring the country from thence to the Gulph of Mexico, and of taking possession of it, in the name of his sovereign. He went to France for the purpose of obtaining the sanction to his enterprize; "his majesty, (says Tonti,) not content with merely approving his design, caused orders to be given to him, granting him permission to go and put it in execution; and to assist him to carry so vast a project into effect, shortly after the necessary succors were furnished him, with entire liberty to dispose of all the countries which he might discover."

He sailed from La Rochelle the 14th of July, 1678, and arrived at Quebec, the 15th of September. On the 18th of November, of the same year, he left fort Frontenac, to proceed upon his expedition with thirty men, Tonti and Father Hennepin being of the company. After spending more than a year in traversing the four Lakes, now known by the names of Ontario, Erie, Huron and Michigan, and erecting forts at suitable places, where he landed; from them he embarked upon the Illinois river, and having descended it for some distance, was obliged to stop, from the disappointment of losing a boat from which he expected supplies. Here, upon the Illinois river, he built fort Crevecœur—divided his company into two separate parties, one for ascending the Mississippi to its source, and the other for proceeding down that river. Father Hennepin was of the former of these parties, and in their progress upwards, which they accomplished higher than the Falls of St. Anthony, was taken prisoner by the Indians, and, after some time, was released by them; found his way back to Quebec, and thence returned to France, and published the book of which I have spoken. In this book, published in 1683, at Paris, and marked as having been finished printing the 5th of January, of that year, three months before La Salle had reached the mouth of the Mississippi, there is a map of the river as far down as Hennepin descended it, after he parted from La Salle, and upwards, to the Falls of St. Anthony, and the river St. Francis, above them; at some distance above which, within a few leagues of its source, is the Oak Tree upon which the arms of France were carved, by the detachment from La Salle's expedition, authenticating with the most minute precision, the discovery of the Mississippi, to within a small distance of its source, as well as its course to the Gulf of Mexico. On the same map are also marked the fort at the Miamies, and that of Crevecoeur, on the Illinois river, constructed by La Salle's orders.

In the meanwhile La Salle was obliged to leave the other part of his company, under the command of Tonti, and go back to Fort Frontenac, for the supplies and reinforcements which had failed him, by the loss of his boat. He returned and joined them again, in November, 1682, proceeded down to the Mississippi, and to the mouth of the Wabash, where they built the fort Prud'homme, which you have confounded with that of Crevecœur, after which they continued descending and successively meeting the Cappa, Arkansas, Tensas, Abenake, Tacucas, and Natchez Indians, and, on the 7th of April, 1683, reached the mouth of the Mississippi, where, after the religious solemnity of a Te Deum, they took formal possession of the country, erected a cross, fastened the arms of France upon a tree, and built several huts, which they surrounded with suitable intrenchments. La Salle, having thus accomplished the object of his expedition, returned by the same way, ascending the river, to his fort of Prud'homme, which he reached on the 12th of May, and where he was some time detained by sickness. "On his arrival at Quebec, (says again Tonti,) he informed the whole city of his great discoveries, and of the voluntary submission of so many different Indian nations to the power of the king. A Te Deum was celebrated as a thanksgiving for this happy accession to the glory of the crown. The eagerness of Mr. de la Salle to go and make known to the king and his ministers the success of his travels, obliged him to hasten his departure. He left Canada in the beginning of October, 1683." On his return to France he was received with many marks of distinction by the king and his ministers, and a new expedition was fitted out of four vessels and nearly three hundred persons, for the purpose of forming a colony at the mouth of the Mississippi. One of these ships was a frigate of the king, of 40 guns, commanded by Mr. de Beaujeu, in which La Salle himself, his brother Cavelier, and the principal persons belonging to the expedition embarked. Another was a smaller armed vessel, which the king had given to La Salle. The third, a flute of three hundred tons, laden with all the articles necessary for the settlement of the country; and the fourth, a small sloop of 30 tons, freighted for St. Domingo, where the expedition stopped on its way, but before their arrival at which, this last vessel was taken by Spanish cruizers. This expedition sailed from La Rochelle on the 24th of July, 1684.

They failed in finding the mouth of the Mississippi, their destination; an accident similar to that which had happened to the first settlers of New England; and after many disasters, landed and built a fort in February, 1685, at the head of the bay of St. Bernard, or as they call it, of St. Louis, and westward of the river Colorado. Beaujeu returned with the frigate to France; the two other vessels were lost in the bay; and La Salle, after several unsuccessful attempts to find the Mississippi, on the 12th of January, 1687, left, at his fort, twenty persons, including seven women, under the command of Le Barbier, and took his departure with sixteen others, to go by land to

the Illinois, and thence through Canada to France, to seek further reinforcement and supplies. On this journey he was basely assassinated on the 19th of March, 1687, by two of his own men, and left a name among the illustrious discoverers of the new world, second only to that of Columbus, with whose history and adventures, his own bear in many particulars, a striking resemblance. His brother Cavalier, however, with Joutel, father Anastase and several others of the party with whom he had commenced the journey, successfully accomplished it, arrived at the French fort at the Illinois, where they found Tonti still in command, after having again been down to the mouth of the Mississippi, conformably to his orders from La Salle, to meet the expedition from Europe, and after waiting some time there, returning to his post. From the fort at the Illinois, Cavalier, Joutel, and father Anastase, proceeded to Quebec, and thence returned to France, where they arrived in October, 1688, and where Joutel published the narrative of the expedition, to which I have referred.

From this work of Joutel it likewise appears, that the fort and colony left by La Salle at the westward of the Colorado, was destroyed, not as you state by the Indians, but by the Spaniards from Mexico; who, until that time, had never had any settlement of any kind, nearer than Panuco, and who, by your own account, had no other right or authority for this act, than the royal order of Philip the Second, to exterminate all foreigners penetrating into the Gulf of Mexico.

The settlements of La Salle, therefore, at the head of the bay of St. Bernard, westward of the river which he called Riviere aux Boeufs, but which you call Colorado of Texas, was not, as you have represented it, the unauthorized incursion of a private adventurer into the territories of Spain, but an establishment having every character that could sanction the formation of any European colony upon this continent; and the viceroy of Mexico had no more right to destroy it by a military force, than the present viceroy would have, to send an army and destroy the city of New Orleans. It was a part of Louisiana, discovered by La Salle under formal and express authority from the king of France; and the royal exterminating order of Philip the second, was but one of the multitude of sanguinary acts which signalized the reign and name of that monarch, while the name of La Salle is entitled to stand high in the glorious roll of the benefactors of mankind. After this statement, founded upon the most authentic documents, the foundation of the presidio of Texas, in 1693, was, by your own showing, an unlawful encroachment upon the territories of France, which by the first of the three principles laid down by Messrs. Pinckney and Monroe, at Aranjuez, and above referred to, extended on the coast of the Gulf of Mexico, half way to the nearest Spanish settlement of Panuco, namely, to the Rio Bravo.

Your "thorough investigation" of the history of the original French settlements at the Illinois, and the Arkansas, is as unfortu-

nate, and as wide from the facts, as all the rest of your dissertation upon the history of Louisiana. The following translated extracts from the work entitled "*Dernieres Decouvertes, dans l'Amerique Septentrionale de M. de la Salle, mises au jour par M. le Chevalier de Tonti, gouverneur du fort St. Louis, aux Illinois,*" (Last discoveries in North America, of Mr. de la Salle, published by the chevalier Tonti, *governor of fort St. Louis, at the Illinois*, Paris, 1697) will furnish you more correct ideas upon the subject.

When La Salle left his Fort Crevecoeur on the 8th of November, 1680, to go back to Canada for supplies, "on the third day (says Tonti) he arrived at the great village of the Illinois, where, after having observed the situation of the country, in the midst of several nations of the Miamis, Kickapoos, Ainoos, Mescontaws, and several others, watered by a beautiful river, he thought he ought to build a fort upon a height commanding the whole country, as well to make himself master of all these different tribes, as to serve as a retreat and a rampart for our French people." (p. 94.) Mr. de la Salle, after learning that his boat was "lost, was not in the least discomposed, but wrote to me immediately, sent me with his letter the plan of the fort that he had designed, and ordered me to come and set to work upon it without delay." Tonti accordingly went and began the building of the fort, which, from various untoward events, he was soon obliged to abandon. La Salle afterwards, before rejoining Tonti to proceed down the river, went to the new fort, and left several workmen to continue, and some soldiers to guard it. But it was upon his return from the mouth of the Mississippi, on leaving Michilimackinac, to go to France, that he gave orders to Tonti to finish the fort.

"He charged me with the duty to go and finish fort St. Louis, of which he gave me the government, with a full power to dispose of the lands in the neighbourhood, and left all his people under my command, with the exception of six Frenchmen, whom he took with him to accompany him to Quebec. We departed on the same day, he for Canada, and I for the Illinois."

Tonti accordingly finished the fort, round which a regular and rapid settlement was formed; and a new governor in Canada, having displaced him in the command of the fort, he was restored to it through the influence of La Salle, by a regular commission from the king, Louis the 14th.

So much for the settlement at the Illinois. You have seen that when La Salle, in 1683, returned to France, to fit out the new expedition for the mouth of the Mississippi, he ordered Tonti, at the proper time, to go down from fort St. Louis and meet him there. In the autumn of 1684, Tonti was informed by the governor of Canada, that La Salle had sailed from La Rochelle with four ships for the Gulf of Mexico. He, therefore, took with him forty men from fort St. Louis, and went down the river to the Gulf, where he waited until Easter Monday, 1685, for La Salle's arrival. He was obliged to go back



disappointed, and on his way upwards, when he came to the Arkansas, he says, "My French companions, delighted with the beauty of the climate, asked my permission to settle there. As our intention was only to humanize and civilize the savages, by associating with them, I readily gave my consent. I formed the plan of a house for myself at the Arkansas. I left ten Frenchmen of my company there, with four Indians, to proceed with the building, and I gave them leave to lodge there, themselves, and to cultivate as much of the land as they could clear. This little colony has since then so much increased and multiplied that it has become a resting place for the Frenchmen who travel in that country."

I trust, sir, we shall hear no more of the independent and unconnected Indian colonies of the Illinois and the Arkansas; nor of the *pretended* settlement of the French there.

You consider the charter of Louis the 14th to Crozat, as a solitary document, warranted by nothing that had preceded, and supported by nothing that followed it, and you appear to believe that the first expedition to Louisiana, was that of 1699 and 1700. I have shown you, sir, that that expedition was fitted out, as it is represented in the grant to Crozat, merely to carry into execution the project originally formed by La Salle. The Mississippi, from near its source to the ocean, had been discovered by him in an expedition meditated by him for many years before, for which he had obtained the authority from Louis the 14th, through the influence and patronage of Colbert. The expedition of Joliet, in 1673, Hennepin says, was only an envious rival attempt, to forestal the great design which was even then known to be intended by La Salle, and for which, he had already been making laborious and expensive preparations. Joliet reached the Mississippi, and returned without making any other discovery or any settlement; but La Salle's undertaking has every characteristic of sublime genius, magnanimous enterprize, and heroic execution. To him, and to him alone, the people of this continent are indebted for the discovery, from its source to the ocean, of the Mississippi, the father of the floods; and of the numberless millions of freemen destined in this and future ages to sail on his bosom, and dwell along his banks, and those of his tributary streams, there is not one, but will be deeply indebted for a large portion of the comforts and enjoyments of life, to the genius and energy of La Salle.

It was in the order of Providence, that he should not live to accomplish the whole of his undertaking, but that he should so nearly accomplish it, as to place it beyond the power of events, that it should perish with him. His project was revived immediately after the peace of Ryswick, and settlements were effected by d'Iberville and his brother, near the mouth of the Mississippi, upon the Gulf of Mexico. They languished, as they naturally must, during the war of the Spanish succession. The grant to Crozat, after a very few years, was transferred to the Mississippi company, and soon after the peace of Utrecht, the city of New Orleans was founded.

There is no doubt, that if the viceroy of Mexico could have exterminated d'Iberville and his expedition, no French settlement on the Gulf would have been made. The Spanish establishment at Pensacola had been made only one month before he arrived there, and solely for the purpose of preventing him. The Spaniards protested even against his entering the Mississippi. So it was afterwards, when the French settlement was made at Natchitoches; immediately afterwards, was founded the post at Adaes. Wherever a Frenchman took a seat, there appeared a Spaniard from Mexico to dispute his right to it; but the original usurpation, which vitiated all those that followed, was the foundation of the Presidio of Texas, after extripating the settlement of La Salle at the Bay of St. Bernard. And so far was France from renouncing or abdicating any part of the right asserted in the charter to Crozat, that under the Mississippi company Mr. de Bourmon was appointed, with a salary, as commandant on the Missouri, and Bernard la Harpe, commandant for the Bay of St. Bernard. In August, 1721, he went there, and left a new impression of the arms of France, as a continued assertion of the title. A vessel, commanded by Berenger, had been sent there, and had left a sergeant and three men the year before. The correspondence between De La Harpe and d'Alarconne, shows the respective claims both of France and Spain at that time, nor do they appear to have been, nor have you exhibited any document to show that they had been, in any manner varied, until the cession of the province to Spain, in November, 1762.

You affirm, that "from the year 1693 the province of Texas has continued in perfect tranquillity under the Spanish government, and no further attempts were made by the French, to penetrate into any part of it." The letter of M. de la Harpe, to Don Martin D'Alarconne, of 8th July, 1719, is sufficient to refute this assertion.

You assert, that the French settlements of Natchez and Natchitoches, were made only through the sufferance or permission of the Spanish governors, for the sole purpose of trading with the Indians. We say that you have not a particle of evidence, to support this assertion, and that the whole tenor of the historical evidence is to the contrary; that the post of Natchitoches, particularly, was established with the deliberate purpose of preventing a Spanish establishment there, and that the mission of St. Michel at the Adaes, was founded after it, and in opposition to it. You admit, yourself, that although positive orders were issued by the Spanish governors, to drive the French from the whole district, and to destroy both the posts of Natchez and Natchitoches; yet the officer charged with the execution of the orders, after advancing with a sufficient force for that purpose, acceded to the proposals of the French at Natchitoches, that Arroyo Hondo, midway between Natchitoches and Adaes, should be considered as the dividing line, until the determination of the two courts. Which state of things you say continued until the cession of Louisiana to Spain in 1762. What clearer proof could be required, that the French never renounced their claim to the countries watered by the

Mississippi and its branches; and that Spain has nothing to oppose to that claim, which she might not with as much force oppose to the right of France to every other part of the colony of Louisiana?

You allege, that upon the cession of Louisiana to Spain, a memoir of its proper extent and limits was drawn up by Mr. Kerlet, who had been many years governor of the province, and delivered by the duke de Choiseul to the Spanish ambassador at Paris, as a supplement to the act of cession. That this memoir contained a description of its proper extent and limits, and *agreed substantially* with your assertions. Permit me to observe, that had you produced the memoir itself, it might be a subject of reply or of remark; that not having produced it, you cannot expect it should be considered as possibly differing in substance from the charter of Louis the fourteenth, by which alone Louisiana had been held, or from the subsequent memoir of the Count de Vergennes; and that the rights of the United States can as little be affected by secret memoirs, as by imaginary treaties or exterminating royal orders of Philip the second. With regard to your offer of further demonstrations of the Spanish title, if they are of the like description with these, you will do well to spare yourself and me the waste of time, which it would take to produce and to notice them. You have the goodness to inform me, in the name of the king, your master, that Spain has an indisputable right to all the right bank of the Mississippi, but that his majesty has resolved to claim it, solely with a view to adhere to the *uti possidetis* of 1764. If, sir, you will exhibit *any* evidence of right in Spain to the right bank of the Mississippi, it will be considered by the government of the United States, with all the attention to which it can be entitled. In the mean time you cannot but perceive, that this pretention is utterly incompatible both with that advanced in another part of your note, of a right in Spain to the whole circumference of the Gulf of Mexico, and with that of the *uti possidetis* of 1764.

The question of disputed boundaries between European settlements in America is not new. From the nature of those settlements, the imperfect geographical knowledge, possessed by all the parties to them, of the countries where they formed their establishments, and the grasping spirit by which they were all more or less animated in forming them, it was inevitable that disputed boundaries should be an appendage to them all. Of this spirit of boundless ambition, Spain gave the most memorable example, by the original pretention of engrossing to herself the whole American hemisphere. The common sense and common feeling of mankind could not and did not long tolerate this assumption. With what lingering reluctance, and by what ungracious gradations Spain was compelled to recede from it, is notorious in the annals of the last three centuries; but it is among the most curious characteristics of your notes to show, that she clings to these long exploded pretentions still. You have not scrupled, even at this day, to style the most ancient settlements of other European

nations in America, "attempts to disturb the Spaniards in their possessions in the New World."

You recall to mind with exultation, as if pointing to the most splendid monuments of Spanish glory, the ferociousness with which they attacked, and made prisoners, and put to death, and overthrew, dissipated and destroyed the forts and settlements of Francis Ribaut, and René de Laudonnière, the companion of Coligny. You recite with triumph the expedition of Alonzo de Leon, to scour the country and hunt out the wretched remnant of the brave and enterprising but unfortunate La Salle's establishment. You record, as one of your proudest title deeds, the rigorous execution of the sentence of a court martial upon the Spanish governor of Adaes, Sandoval, for yielding a musket shot's length of ground to the French governor of Natchitoches, suffering under the calamity of an inundation. You call the whole colony of Louisiana an *intrusive establishment*, style the authentic charter of Louis fourteenth the absurd and despicable act of a disordered imagination; assert more than once a right of Spain to the whole circumference of the Gulf of Mexico, and talk of the territory and dominions of the crown of Spain, as if we were living in the age of Ferdinand the catholic, or of Charles the fifth.

To all such pretensions on the part of Spain, I am directed to inform you, that the United States can never accede. The President is willing to hope that the time will come, when your government will become sensible of the uselessness of resorting to them.

From the time when the establishments of European nations on these continents became common, and their respective claims of territory under the charters of their sovereigns were found to interfere with one another, reason, justice, and necessity concurred in pointing out to them certain rules and principles for the adjustment of their conflicting claims. By these rules and principles, we are willing that the question of the western boundary of Louisiana may be decided. Till Spain, who has repeatedly acceded to them heretofore, shall be prepared to abide by them on this occasion, it will be of little avail to pursue a discussion, upon which the principles of the parties are utterly irreconcilable together.

With regard to the third of the subjects of difference between Spain and the United States, that remains to be adjusted, the claims of indemnification for injuries, losses, and damages, suffered by American citizens from Spanish authorities and subjects, and within Spanish jurisdiction, I flatter myself from the tenor of your note, devoted particularly to the consideration of this point, that it is not absolutely unsusceptible of being brought to a favorable issue. You express the willingness of your government to resume the unratified convention of 1802, and to extend its stipulations to the cases of complaint of a similar character to those provided for in it, which have since that time accrued. It is undoubtedly the intention of this government, that its engagements should be reciprocal, and if this was not expressly declared in my note of the 16th of January, it was merely because the President was not aware that any such claims of Spanish subjects, from indemnities from the American govern-

ment were in existence. I am authorized to assure you that there will be no difficulty in including any such as may exist in the convention, and in making the United States answerable for all indemnities which may be justly due by them. As you have also been empowered to include the cases of injuries and losses of citizens of the United States, in consequence of the suppression by the Spanish intendant of the deposite at New Orleans, as stipulated by the treaty of 27th October, 1795, it cannot be necessary for me to reply to your objections against the admission of those claims. I the more readily pass over that argument, because, as it is merely a repetition of what was urged on the same point by Mr. Cevallos in 1805, it may suffice to refer you, for a full and complete refutation of it, to the letter from Messrs. Pinckney and Monroe to him, of 26th February of that year.

But even upon this branch of the negotiation, it is with regret that the President perceives a persevering determination of your government, to exclude from the consideration of the commissioners for settling indemnities, the cases of American sufferers by French spoliations committed within the jurisdiction of Spain. In answer to your reference to the arguments of Mr. Cevallos on this point, in his notes to Messrs. Pinckney and Monroe, of 10th February, and 5 [4] March, 1805, it will be sufficient for me to refer you to their letters to him of 28th January, 12th and 26th February, 8th March, 9th April, and 12th May, with the statement then made by them of French captures of American vessels carried into the ports of Spain, and the demonstration that no indemnity for any one of those cases had even been demanded by the American government, of France, much less provided for in the conventions between the United States and France, of 1800 and 1803. When you say that "no reply was made on the part of the United States, weakening in the least the force of the principles and the truth of the facts, on which the opposition of Spain to a responsibility for those damages and injuries was founded," it is impossible to account for your assertion, but by supposing you have not been furnished by your government with a copy of the above mentioned statement. I therefore now enclose (E. 5.) a copy of it, in which you will find how grossly mistaken, with regard to the facts, are all the allegations in the letter of the French minister of foreign relations to admiral Gravina, of 27th July, 1804, of which you have inserted in your note an entire copy, and of which Mr. Cevallos had already favored Messrs. Pinckney and Monroe with an extract.

It may be proper here to present some obvious remarks upon the frequent appeals to the opinions and assertions of France (under the government of Napoleon) in reference to the controversy between the United States and Spain, which were made by Mr. Cevallos at Aranjuez, in 1805, and which are now repeated by you, with as much confidence as if you considered France, as then governed, the most impartial of umpires, and the most disinterested of friends.

At that time, when these opinions and representations of France were alleged by Mr. Cevallos, they were answered by the American ministers with the firmness which became the representatives of a great and independent nation, and with the sentiment, at once of their country's dignity, and of the respect due to the government of France, with which the United States were in amity. With regard to the eastern limits of Louisiana, they observed that the question depending upon the construction of a

treaty to which the United States were a party, the opinion of France concerning it could be of no more weight, in itself, than that of the United States. That in adopting the phraseology of the treaty of St. Ildephonso, when France declined substituting a more specific definition of boundaries, the United States could not be supposed to have subjected themselves to the subsequent explanatory restriction by France, of that which she then chose to leave standing upon the force of the terms themselves; and that, the delivery of the province by the commissioner of France to the United States, having been without any limitation, it was obvious that he had received it alike without limitation.

With respect to the French spoliations within Spanish jurisdiction, while the interest of France was so immediate and direct, as to take from her opinion all right to the consideration due to an impartial arbitrator, it was supposed that the proper view of the subject had not been presented to the emperor; and the most unequivocal demonstration was given, that no indemnity or satisfaction had been received, or even demanded, from France, by the United States, for this description of injuries.

At this day your government must be aware that the umpirage, and even the opinions, of France upon these questions, was liable to other and still more decisive objections. Of the use which France was already making, and was further contemplating to make, of Spain, of her revenues and possessions, not only in Europe, but in every other quarter of the globe, little needs to be said. That she was converting to purposes of her own all the resources of Spain, has been, since then, too signally manifested to the world to require further elucidation. It was impossible for her to recognize that Spain was bound to indemnify the United States for the spoliations of French cruizers within Spanish jurisdiction, without acknowledging herself the debtor of Spain to the same amount. To call for her testimony, therefore, was to claim her as a witness in her own cause; to appeal to her opinions was to make her the judge of her own delinquencies. By countenancing Spain in the denial of justice to others, she did but reserve her as a richer spoil for herself; nor can it be dissembled, that the recourse of Spain, on that occasion, was rather to the predominating power than to the justice of France. These observations are made, not with the view of reproaching Spain now, for the compliances with which she then sought and obtained the declarations of France in her favor, upon her controversies with the United States, but to show the solid and irrefragable grounds upon which the United States may refuse all deference for the opinions, and disclaim all credit to the statements of France.

At the time when France had ceded Louisiana to the United States, her good offices with Spain to secure the acquisition of Florida to the United States, had been explicitly promised. The letter of Mr. Monroe to Mr. Talleyrand of 8th November, 1804, in reminding him of that engagement, had sufficiently shown, that the government of the United States, in calling upon France for the performance of her promise, had no intention of admitting her to arbitrate upon the extent of the concession which had been made by herself. True it is that she not only espoused the side of Spain, as considering it her own, but she even stimulated Spain to the denial of justice to the United States. As her motives, if Spain could be doubtful of them then, must be abundantly notorious now, it could scarcely have been expected that Spain should still recur to them, as entitled to the slightest consideration or credit.

There is no principle of the law of nations more firmly established than that which entitles the property of strangers, within the jurisdiction of a country in friendship with their own, to the protection of its sovereign, by all the efforts in his power. This common rule of intercourse between all civilized nations, has, between the United States and Spain, the further and solemn sanction of an express stipulation by treaty. In violation both of the common usage of nations, and of the express promise of Spain in the treaty, nearly two hundred vessels and their cargoes, belonging to citizens of the United States, were seized, many of them within the territorial limits of Spain, and under the cannon of her fortresses, by French cruizers; and all of them were condemned within Spanish jurisdiction.

You allege—*First*, that Spain has, in the cases to which reference is now made, actually carried into effect the obligations contracted by treaty; that she has used all her efforts for the defence and protection of this property. But in what have these efforts consisted? These were not cases of vessels seized by sudden violence and carried away beyond her jurisdiction, before the officers, appointed for the execution of her laws, could be apprized of the wrong, and summoned to the performance of their duties. They are not cases of clandestine depredations, eluding the vigilance of the magistrates; they are cases of friendly merchants and navigators frequenting the ports of Spain, upon the faith of treaties, and for purposes of a mutual beneficial intercourse, seized, some of them in the very harbors of Spain, by foreign cruizers, dragged on Spanish ground before a foreign consul, and there plundered of their property, before the face of all the lawful authorities of Spain; who neither raise a voice nor lift an arm for their defence. What then have been all the efforts of Spain for the protection of this property, conformably to the treaty?

You say—*Secondly*, that Spain was not responsible for these depredations, because they were made by a nation with which the United States were not at war; and this you say immediately after quoting the words of the sixth article of the treaty, expressly stipulating protection and defence in the ports of Spain to the vessels and other effects of citizens of the United States, “whether they are at war, or not, with the power whose subjects have taken possession of the said effects.”

You observe—*Thirdly*, that France and Spain were then allies, in a war against England; and that Spain *could not prevent* the privateers of her ally from entering her ports. But it is not that the French privateers were allowed to enter the ports of Spain, of which the United States complain, but that they were suffered to make prizes, and the French consuls to condemn them, within the territorial jurisdiction of Spain. You refer to the decision of a subordinate British court of admiralty, that the prizes of a belligerent may be carried into the ports of an ally, and there lawfully condemned; but surely you do not mean to contend, that the decisions of an admiralty court of one nation constitute the law of nations, or can even be adduced as authority for others. Of this principle at least, there can be no doubt, that an alliance between two nations cannot absolve either of them from the obligations of previous treaties. Now the treaty between Spain and the United States, by which Spain was bound to protect the property of American citizens within her jurisdiction, was concluded before the alliance between Spain and France had

been contracted; and the alliance could in no wise impair the rights of the citizens of the United States to the protection of their property, stipulated in their favor by the antecedent engagement of Spain.

Your fourth and last expedient, for relieving Spain from responsibility for these losses and injuries, suffered by American citizens upon her territory, is the positive assertion, that satisfaction has already been made for them by France: your only voucher for which is the letter of 27th July, 1804, from Mr. Talleyrand to admiral Gravina. The assertions of that letter I have shown, by reference to indisputable documents, are utterly without foundation.

Your subsequent offer, of the good offices of your government, near that of the present court of France, to obtain indemnities for American citizens for French depredations committed within Spanish jurisdiction, by virtue of an alliance between Spain and Napoleon, you doubtless did not expect to be accepted. It is to Spain alone, sir, that the United States still look, and will continue to look, as they always have looked, for those indemnities, for which Spain alone is responsible to them. I am instructed to renew to you the declaration, repeatedly made by the minister of the United States to your government at Aranjuez, in 1805, that no satisfactory arrangement can be made of the differences between the two countries, which shall not include the adjustment of these injuries.

Before bringing this reply to your four successive notes to a close, it is necessary to advert to several incidental assertions and remarks, which you have made in relation to the negotiation at Aranjuez, equally destitute of foundation, with the claims and pretensions, to which this letter has already replied.

In your note of the 29th December, you affirm, that the negotiation at Aranjuez was "early interrupted;" and in that of the 24th January, to confirm the assertion, that if all the differences between the two countries have not long since been adjusted, it has not depended upon the government of Spain, you say that this is "evident, beyond the possibility of denial, from the official correspondence between his catholic majesty's minister of state and the plenipotentiaries of the American government who *suspended* and *gave up* the negotiation at Aranjuez, after having obstinately refused to accept the modifications founded on strict justice, which were proposed by the Spanish government."

The negotiation of the Special mission of the United States at Aranjuez, in 1805, occupied a period of nearly five months, from the beginning of January, when Mr. Monroe arrived at Madrid, to the 22d of May, when he took leave of the king, to return to London. In his address to the king on that occasion, he said "on my arrival here, I had the honor to assure your majesty, of the high consideration of my government for your majesty's person and government. I then hoped to have had the honor to conclude the special mission with which I was charged in conjunction with the minister plenipotentiary near your majesty, to the advantage and satisfaction of both parties; but being disappointed in this respect, *all our propositions having been rejected, and none others ever offered on the part of your majesty's government, though often invited*, it is my duty to return to my station at London."

This assertion, made to the king of Spain in person, at the close of that mission, was fully warranted by the transactions under it. Every one of the topics, now included in your four notes, as embracing all the



subjects of difference between the two countries, were discussed at great length, much in the same manner which you have now insisted upon repeating. The questions of indemnities for spoliations, Spanish and French, and for the suppression of the deposite at New Orleans; of the eastern and of the western boundary of Louisiana, were descanted upon with pertinacity as indefatigable by Don Pedro Cevallos as by yourself. He bestowed as many pages upon the terms *retrocede* and *retrocession* as you have done. He appealed with equal confidence and alacrity to the opinions, and cited with equal complacency the testimonials of the ministers of Napoleon, and reminded Messrs. Monroe and Pinckney, with a satisfaction not inferior to your own, of the "very pointed" manner in which the French minister of foreign relations, Mr. Talleyrand, announcing the sentiments of his imperial majesty, observed, that "to make known the rights which France had acquired, was to indicate the *extent* and the *limits* of those which she transmitted to the federal government." To every thing that had the semblance of reason and argument, adduced in the successive notes of Mr. Cevallos, the American ministers temperately and patiently replied; they unfolded, with a clearness and precision to which nothing can now be added, the claims of the United States, and the facts and principles by which they were supported. They proposed, at the commencement of the negotiation, a project of a convention for the adjustment of all the interests in dispute. After all the subjects had been thoroughly discussed, they presented a second project, modified in the most conciliatory spirit of accommodation to Spain. They invited, and reiterated, almost to importunity, the invitation, to a counter project, or proposals on the part of the Spanish government. These unwearied efforts were met by a constant, invariable, inflexible refusal either to accept their proposals, or to make to them any whatsoever in return.

You speak of the *titles, dates, documents, and arguments* produced on the "part of Spain, at that negotiation, incontestably proving, by abundant and irresistible evidence, the rights of the Spanish monarchy to the territory in question."

If such had been the facts, where would be the pretence that the American ministers had prematurely suspended or given up the negotiation? But Mr. Cevallos produces no such titles, dates or documents; the only *title* ever alleged by him in support of the pretensions of Spain was the title of *retrocession*, applied to the treaty of St. Ildephonso; the only date was that of 1690, which he assigned as the period of the first Spanish settlement of Texas, which date was five years later than the settlement of La Salle, at the head of the Bay of St. Bernard; and the only documents were the dictatorial and menacing testimonials of the French minister of foreign relations. That all the titles, dates and documents then referred to, were insufficient in the estimation of your own government to establish the rights which you have claimed, is manifest from the efforts which you have made to bring forward others, and from the character of those to which you have resorted, an unknown, and as it is believed, imaginary, treaty of 1764, and a royal exterminating order of Philip the Second.

You perceive, sir, that the government of the United States is not prepared either to renounce any of the claims which it has been so long urging upon the justice of Spain, or to acquiesce in any of those arguments which appear to you so luminous and irresistible.

Determined to pursue the establishment of their rights, as long as by any possibility they can be pursued through the paths of *peace*, they have acquiesced, as the message of the President, at the commencement of the present session of Congress, has informed you, in that policy of Spain, which has hitherto procrastinated the amicable adjustment of these interests, not from an insensibility to their importance, to this Union nor from any indifference to the object of being upon cordial terms of harmony with Spain, but because peace is among the dearest and most earnest objects of their policy; and because they have considered, and still consider it, more congenial to the principles of humanity, and to the permanent welfare of both nations, to wait for the favorable operation of time upon the prejudices and passions opposed to them, than to resort to the unnecessary agency of force. After a lapse of thirteen years of patient forbearance, in waiting for the moment when Spain should find it expedient to meet their constant desire of bringing to a happy and harmonious termination all the conflicting interests between them, it will need little additional effort to wait somewhat longer with the same expectation. The President deems this course even more adviseable, than that of referring the questions depending between the two nations to the arbitrament or meditation of one or more friendly European powers, as you have been authorized to propose. The statement in your note of the 10th of February, in reference to this subject, is not altogether correct. It is not the British government which, on this occasion, has offered; but your government which, without first consulting or asking the concurrence of the United States, has requested the mediation of Great Britain. The British government, as must be well known to you, have declined the offer of their mediation, unless it should be requested by both parties; and have communicated to the government of the United States, this overture, on the part of Spain. The President has thought proper, from motives which he has no doubt will be deemed satisfactory both to Great Britain and Spain, to decline uniting in this request. He is indeed, fully persuaded, that, notwithstanding any prepossessions, which the British government may have heretofore entertained with regard to any of the points in controversy, they would have been entirely discarded in assuming the office of a mediator. But it has hitherto been the policy, both of Europe and of the United States, to keep aloof from the general federative system of each other. The European States are combined together, and connected with one another by a multitude of important interests and relations, with which the United States have no concern, with which they have always manifested the determination not to interfere, and of which, no communication being made to them by the governments of Europe, they have not information, competent to enable them to estimate their extent and bearings. The United States, in justice to themselves, in justice to that harmony which they earnestly desire to cultivate with all the powers of Europe, in justice to that fundamental system of policy, which forbids them

from entering the labyrinth of European politics, must decline soliciting or acceding to the interference of any other government of Europe, for the settlement of their differences with Spain.

But however discouraging the tenor and character of your recent notes has been to the hopes, which the promises and professions of your government had excited, that the time for adjustment of these differences with Spain, herself, had at length arrived, the United States will not abandon the expectation, that more correct views of the subject will ultimately be suggested to your government, and they will always be disposed to meet them in the spirit of justice and amity. With regard to those parts of the province of Louisiana, which have been incorporated within the state of that name, it is time that the discussion should cease. Forming part of the territory of a sovereign and independent state of this Union, to dispose of them is not within the competency of the executive government of the United States, nor will the discussion be hereafter continued. But if you have proposals to make, to which it is possible for the government of the United States to listen, with a prospect of bringing them to any practicable conclusion, I am authorized to receive them, and to conclude with you a treaty for the adjustment of all the differences between the two nations, upon terms which may be satisfactory to both.

With regard to the motives for the occupation of Amelia Island, the messages from the President of the United States to Congress, and my letter to you of 16th January, have given the explanations which, it is presumed, will be satisfactory to your government. The exposed and feeble situation of that island, as well as of the remainder of East Florida, with their local position in the neighborhood of the United States, have always been among the primary inducements of the United States, for urging to Spain the expediency to the interests of both nations, that Spain should cede them for a just and suitable equivalent to the United States. In the letter of the 28th of January, 1805, from Messrs. Pinckney and Monroe, to Mr. Cevallos, the following passage stands prominent among the arguments used by them to that effect. "Should Spain," say they "not place a strong force in Florida, it will not escape your excellency's attention, that it will be much exposed to the danger of being taken possession of by some other power, who might wish to hold it with very different views towards Spain, than those which animate the government of the United States. Without a strong force being there, it might even become an asylum for adventurers and freebooters, to the great annoyance of both nations."

You know, sir, how far the events, thus anticipated, and pointed out so early as in January, 1805, to the prudent forecast of Spain, have been realized. Pensacola has been occupied by another power, for the purpose of carrying on war from it against the United States, and Amelia Island has been occupied by adventurers, to the great annoyance of both nations, and of all others engaged in lawful commerce upon the Gulf of Mexico. Before these events occurred, the Congress of the United States, aware of the great and growing danger of them, which had been so long before distinctly foreseen, had made it the duty of the executive government, in

the case of such a contingency, to take the temporary possession of the country which might be necessary, to avert the injuries that must result from it. Amelia Island was taken, not from the possession of Spain, but of those from whom she had been equally incapable of keeping or of recovering its possession, and who were using it for purposes incompatible with the laws of nations and of the United States. No purpose, either of taking or of retaining it as a conquest from Spain, has ever been entertained; and unless ceded by Spain to the United States, it will be restored whenever the danger of its being again thus occupied and misused shall have ceased.

It is needless to add, that the proposal that the United States should take any further measures than those already provided by law for preventing armaments hostile to Spain within the territories of the United States, is inadmissible. The measures already taken, and the laws already existing against all hostile armaments within our jurisdiction, incompatible with the obligations of neutrality, are sufficient for its preservation; and the necessary means will continue to be used, as they have been, to carry them faithfully into execution.

I have the honor to be with great consideration,

Sir,

Your obed. and very humble servant,

(Signed)

JOHN QUINCY ADAMS.

## A. 1.

*Don Martin D'Alarconne, to M. de la Harpe.*

MONSIEUR,

I am very sensible of the politeness that M. de Bienville and yourself have had the goodness to show to me. The orders I have received from the king, my master, are to maintain a good understanding with the French of Louisiana; my own inclinations lead me equally to afford them all the services that depend upon me. But I am compelled to say, that your arrival at the Nassonite village, surprizes me very much.

Your governor could not be ignorant that the post you occupy belongs to my government, and that all the lands west of the Nassonites depend upon New Mexico.

I counsel you to give advice of this to M. Bienville, or you will force me to oblige you to abandon lands that the French have no right to occupy.

I have the honor to be,

Sir,

(Signed)

D'ALARCONNE.

*Trinity River, May 20, 1719.*

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B. 2.

*Monsieur de la Harpe, to Don Martin D'Alarconne.*

MONSIEUR,

The order from his catholic majesty to maintain a good understanding with the French of Louisiana, and the kind intentions you have yourself expressed towards them, accord but little with your proceedings. Permit me to inform you, that M. de Bienville is perfectly informed of the limits of his government, and is very certain that the

post of Nassonite depends not upon the dominions of his catholic majesty. He knows also that the province of Lasketas, of which you say you are governor, is a part of Louisiana. M. de la Salle took possession in 1685, in the name of his most christian majesty; and since the above epoch, possession has been renewed from time to time.

“Respecting the post of Nassonite, I cannot comprehend by what right you pretend that it forms a part of New Mexico. I beg leave to represent to you, that Don Antoine du Miroir, who discovered New Mexico in 1683, never penetrated east of that province or the Rio Bravo. It was the French who first made alliances with the savage tribes in this region; and it is natural to conclude, that a river that flows into the Mississippi, and the lands it waters, belongs to the king, my master.

“If you will do me the pleasure to come into this quarter, I will convince you I hold a post I know how to defend.

“I have the honor to be,

“Sir,

“DE LA HARPE.”

*Nassonite, July 8, 1719.*

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C. 3.

On the 10th of August, 1721, M. de la Harpe received the following order:

WE, John Baptiste de Bienville, Chevalier of the Military Order of St. Louis, and Commandant General for the King in the province of Louisiana:

It is hereby decreed, that M. de la Harpe, commandant of the Bay of St. Bernard, shall embark in the packet the Subtile, commanded by Beranger, with a detachment of twenty soldiers, under M. de la Belile, and shall proceed forthwith to the Bay of St. Bernard, belonging to this province, and take possession in the name of the king, and the west company shall plant the arms of the king in the ground and build a fort upon whatever spot appears most advantageous for the defence of the place.

If the Spaniards, or any other nation, have taken possession, M. de la Harpe will signify to them, that they have no right to the country, it being well known that possession was taken in 1685, by M. de la Salle, in the name of the king of France, &c

(Signed)

BIENVILLE.

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D. 4.

*Extracts, translated from the "Diccionario Geografico Historico De las Indias Occidentales O America," by Colonel Don Antonio de Alcedo, captain of the Royal Spanish Guards, printed at Madrid in 1786—1789, by the permission of government, and dedicated to the Prince of Asturias, afterwards Charles the 4<sup>th</sup>.*

"Louisiana," a province and government of North America, one of the two, which form New France, bounded on the south by the Gulf of Mexico; on the north by the River Illinois and the Indian tribes of the Pamasus, Paoducas, Osages, Tronontes, Tecagas, Chavanons and others; on the east by West Florida, Georgia, and Carolina; and on the west by New Mexico and New Spain. Its extent from north to south, is about fifteen degrees; that is to say, from 25<sup>th</sup> to the 40<sup>th</sup> degree of north latitude, and from east to west 10 or 11 degrees between 86 and 96 west longitude; its limits however not being precisely fixed, M. De Lise gives it a much greater extent, particularly towards the north, where it borders on Canada, and according to him, it is afterwards bounded by New York, Pennsylvania, Virginia, &c. and to the west by the river Bravo and Salado."

"*Misouri*," an Indian tribe of the province and government of Louisiana, inhabiting the banks of the river of the same name, on which a fort was built by the French for the defence of that establishment."

"*Natchitoches*, or *Natihetoches*," as pronounced by some, a tribe of Indians of the province and government of Louisiana in North America, living fifty leagues up the Red River, by which name they are sometimes called. This tribe has always been friendly to the French, and hostile to the Spaniards; is very numerous, and has upwards of two hundred cabins. The French soldiers who had completed their time of service, settled in an island in the Red River, where they built a fort, and called it Natchitoches; but having planted tobacco, and discovered that the sand blown on it by the wind gave it a bad quality, they removed their settlement to the main land, where they succeeded in cultivating that plant, so as to give a particular estimation: it is sixty leagues from New-Orleans."

"*Rouge*," Red River, a large and rapid river of the province and government of Louisiana, in North America; takes its rise about the tribe of the Cannesis, runs south east, and after receiving other streams, changes its course to the south, as far as the tribe and fort of Natchitoches, where it again turns to the south east, forms seven-

ral lakes and islands, and thence running eastward, joins the Mississippi much increased, near where the river empties into the sea."

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E. 5.

*Extract from a paper communicated by Messrs. Pinckney and Monroe, to Mr. Cevallos, dated*

*Aranjuez, 12th May, 1815.*

"From the 1st of October, 1796, until the \_\_\_\_\_ there were brought into the ports of his catholic majesty in Europe and Africa, by the French, 168 vessels.

Of the above have been condemned,	-	-	-	-	74
Acquitted, ransomed, or compromised,	-	-	-	-	23
Cases of violation of the Spanish territory, condemned,					13
Run ashore and lost,	-	-	-	-	1
Unaccounted for,	-	-	-	-	7
Result not known,	-	-	-	-	50
					Total, 168

A statement of the facts relative to American vessels taken by French privateers, and condemned in Spanish ports, obtained from the most authentic sources."

"Of the French spoliations, there have been fifty appeals from the consular judgments in Spain to the council of prizes at Paris, of which thirty have been released, nine condemned, and twelve are yet depending. Not one *sous* has been paid in any case, nor is there a single case of such spoliations on the list of liquidations now at the French treasury, which are to participate of the twenty millions of livres, to be paid by the United States to their citizens, under the treaty of 1803, on account of French spoliations. The American minister never did demand payment of French spoliations made in Spain, knowing them as such, nor did the American agent ever demand it by his order or knowledge. The first intelligence, which the American government had of appeals being permitted from the French consular tribunals in Spain, to the council of prizes in France, was received from Spain herself.

"As soon as it was received, the Secretary of State wrote to the American minister in Paris, to know what the fact was, and instructed him, at the same time, to prohibit the agent from acting in such cases, it having been, at all times, the opinion of the government, that Spain alone was answerable, of whom only has the recompence been demanded."



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**LIST OF PAPERS**

*Referred to in the Report of the Secretary of State, of the 14th of March, accompanying the Message of the President of the same date, transmitted to the Speaker of the House of Representatives, the 28th of March, 1818, by direction of the President.*

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WASHINGTON:

PRINTED BY E. DE KRAFFT.

1818.



## No. 2.

*Correspondence of Don José Pizarro and Mr. Erving.*

- Don José Pizarro to Mr. Erving, dated 16th July, 1817.  
 Mr. Erving to Don José Pizarro, dated 19th July, 1817.  
 Don José Pizarro to Mr. Erving, dated 27th July, 1817.  
 Mr. Erving to Don José Pizarro, dated 29th July, 1817.  
 Don José Pizarro to Mr. Erving, dated 17th August, 1817.  
 Mr. Erving to Don José Pizarro, dated 19th August, 1817.  
 Don José Pizarro to Mr. Erving, dated 31st August, 1817.

## No. 3.

*Correspondence of Don Luis de Onís and the Secretary of State.*

- Don Luis de Onís to the Secretary of State, dated 2d January, 1817:  
 The same to the same, dated 15th January, 1817.  
 The same to the same, (two) dated 16th January, 1817.  
 The same to the same, dated 10th February, 1817.  
 The same to the same, dated 11th February, 1817.  
 The same to the same, dated 12th February, 1817.  
 The same to the same, dated 22d February, 1817.  
 The same to the same, dated 28th February, 1817.  
 The same to the Acting Secretary of State, dated 14th March, 1817.  
 The same to the same, dated 15th March, 1817.  
 The same to the same, (two) dated 26th March, 1817.  
 The Acting Secretary of State to Don Luis de Onís, dated, 28th March, 1817.  
 Don Luis de Onís to the Acting Secretary of State, dated 29th March, 1817.  
 Don Luis de Onís to the Acting Secretary of State, dated 4th April, 1817, with enclosures No. 1, 2, 3.  
 The same to the same, dated 5th April, 1817.  
 The same to the same, dated 18th April, 1817, with enclosures No. 1 to 7.  
 The Acting Secretary of State to Don Luis de Onís, dated 22d April, 1817.  
 Don Luis de Onís to the Acting Secretary of State, dated 23d April, 1817.  
 The same to the same, dated 2d September, 1817.  
 The same to the same, dated 19th September, 1817.  
 The same to the Secretary of State, (two) dated 2d November, 1817.

*Department of State, March 28, 1818.*

The first part of the document is a list of names and titles, including  
 Mr. John Smith, Mr. James Brown, Mr. Robert White, Mr. Thomas Green,  
 Mr. Charles Black, Mr. William Grey, Mr. Henry Gold, Mr. Benjamin  
 Franklin, Mr. George Washington, Mr. John Adams, Mr. Thomas Jefferson,  
 Mr. James Madison, Mr. James Monroe, Mr. John Quincy Adams,  
 Mr. Andrew Jackson, Mr. Martin Van Buren, Mr. William Henry Harrison,  
 Mr. John Tyler, Mr. James K. Polk, Mr. Zachary Taylor, Mr. Andrew  
 Johnson, Mr. Ulysses S. Grant, Mr. Rutherford B. Hayes, Mr. James  
 A. Garfield, Mr. Chester A. Arthur, Mr. Grover Cleveland, Mr. Benjamin  
 Harrison, Mr. William McKinley, Mr. Theodore Roosevelt, Mr. William  
 Howard Taft, Mr. Woodrow Wilson, Mr. Warren G. Harding, Mr. Calvin  
 Coolidge, Mr. Herbert Hoover, Mr. Franklin D. Roosevelt, Mr. Harry  
 Truman, Mr. Dwight D. Eisenhower, Mr. John F. Kennedy, Mr. Lyndon  
 B. Johnson, Mr. Richard M. Nixon, Mr. Gerald R. Ford, Mr. Jimmy  
 Carter, Mr. Ronald Reagan, Mr. George H. W. Bush, Mr. Bill Clinton,  
 Mr. George W. Bush, Mr. Barack Obama, Mr. Donald Trump, Mr. Joe  
 Biden, Mr. Kamala Harris, Mr. Mitch McConnell, Mr. Nancy Pelosi,  
 Mr. Kevin McCarthy, Mr. Stacey Abrams, Mr. Alexandria Ocasio-Cortez,  
 Mr. Eric Swalley, Mr. Ilhan Omar, Mr. Rashida Tlaib, Mr. Ayanna  
 Pressley, Mr. Gohmert, Mr. Louie Gohmert, Mr. Ted Cruz, Mr. Dan  
 Claitor, Mr. Scott Lujan, Mr. Tom Homan, Mr. Louie Gohmert, Mr.

## No. 2.

(Translation.)

*Mr. Pizarro to Mr. Erving.***SIR,**

Since the happy restoration of his majesty to the throne of his august progenitor, one of his principal objects has been to establish, upon solid foundations, his political relations with the several powers friendly to Spain, by removing whatever obstacles were of a nature to effect their future good understanding.

From the beginning, the state of affairs between Spain and the United States called his majesty's attention, and as soon, during the last year, as reciprocal organs of communication were established by the recognition of their respective ministers, the king announced his desire of making evident the right of each power, on the different points of existing reclamations.

In your note of August 26th, of the last year, addressed to my predecessor, you also manifested, that you were equally disposed to enter into the discussion in behalf of your government, and to conclude a treaty honorable and satisfactory to both parties, to which end, you intimated, that you were authorized by ample powers and instructions; but as the various questions depending between the two governments, and the incidents of later years, which had complicated them, formed a total of objects, which appeared to require a prolix examination, his majesty thought that this might be made between his minister plenipotentiary at Washington, and the American Secretary of State, with more despatch than in Madrid, where the government of his majesty found itself at the time surrounded with a multitude of pressing engagements, arising from the necessity of re-establishing the order subverted by foreign invasion, and by the very extraordinary means which had been adopted to repel it with success.

The minister of the king, in Washington, was perfectly acquainted with all that had happened of late years; he knew to the foundation all the rights of Spain upon each of the depending questions; he was aware how well disposed was the mind of his majesty to attend to the reclamations of the American government, which might be founded on justice, and even to accede to those, in which he might voluntarily please the United States, without injury to his vassals, or to the rights of his crown. It was, therefore, thought right to authorize him with full powers, and to make him aware, that after entering into an examination and discussion, corresponding to the tenor of what he knew respecting the rights of Spain, he should proceed to

an adjustment, taking for a basis the demonstrated right of each party, upon each of the points discussed.

But it appears, that the government of the United States, has deemed it to be superfluous, to enter into an ulterior discussion of said points, after that which had taken place at a former period; and it appears also to have intimated its desire of an arrangement or conclusion upon the whole, jointly, of the respective pretensions, in which, without losing sight of the foundation of each, considerations of mutual convenience, should be equally attended to, and to fix the basis of an order, which could not be easily changed in future.

For this kind of arrangement, by way of conclusion, the minister of his majesty thought that competent instructions were wanting to him, and in fact he was in need of those, which were much more detailed, than those he already had, since they were intended to terminate the business, taking for a basis only the examination and knowledge of the rights of each, in the different objects which the negotiation embraces.

Soliciting more ample instructions, the minister has sent to Madrid the secretary of his legation, Don Luis Noeli, and his majesty has ordered, that they be prepared and arranged with all possible despatch. But, as in this course, which it is desired to give to the negotiation, it is perhaps possible, that you and I can arrive more readily at a result, seeing what you state in your notes of 26th August and 19th September, upon the business, my desire, to do whatever may contribute to a satisfactory termination, induces me to ask you to please to explain, whether you continue authorized to enter into conference with me, and even to conclude an arrangement on the matter; for, in this case, without failing to send to his majesty's minister at Washington suitable instructions, which the said secretary of legation will carry, we can also occupy ourselves in the same business, and perhaps arrive at a definitive arrangement with more promptitude, than the minister of his majesty at Washington, who, by some occurrence or proposition made to him, not foreseen in the instructions, may be put in the necessity of again consulting his majesty, and thus creating delay, which cannot happen with me, who have the honor to receive daily the orders of the king.

If you feel yourself authorized to this effect, our progress in this business may be substantially the same, as indicated in your note of the 26th August; for, though in the projected arrangement, we take for our guide considerations of reciprocal convenience, and the desire to avoid the reproduction of motives of disagreement for the future, a consideration of the respective rights of our governments in the questions depending, can never be lost sight of, as you also indicate in your said note; to the end that the sacrifice or relinquishment, which each may think it proper to make, should be correspondent and proportionate, to what he may exact from the other in return.

If we shall succeed in forming the arrangement, which we desire to conclude, *in a perfect knowledge of the right of each, modified by considerations of reciprocal utility*, it cannot be but firm and durable, and consolidate a good understanding between the two nations, both of which are interested in preserving it.

I profit of this occasion, to renew to you assurances of my high consideration, and pray God, &c. &c.

(Signed)

JOSE PIZARRO.

Palace, 16th July, 1817.

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*Mr. Erving to Don Jose Pizarro.*

Madrid, July 19th, 1817.

SIR,

I had yesterday the honor to receive your excellency's note of the 16th instant.

Adverting to a late correspondence between the Secretary of State of the United States, and the chevalier Onis, minister plenipotentiary of his majesty, your excellency seems to conclude, that the American government hath declined to enter into an "*ulterior discussion*" of the several points of difference which present themselves for adjustment between the two countries, and to have intimated a wish to make an arrangement, founded upon an aggregate view of their respective pretensions, in which, without forgetting the principles on which the right of each reposes, a due regard should be observed to considerations of mutual convenience.

For this class of arrangement, you allow that Mr. Onis had not sufficient instructions—those which he had, authorizing the termination of a negotiation, only upon the basis of an examination, and recognition of the rights of each party, on each of the several objects which the negotiation should embrace.

But it appears from the correspondence adverted to, not only that Mr. Onis did not conceive himself to be authorized to negotiate and sign a treaty of the kind indicated, but that he was not empowered to negotiate and settle a convention on any separate object; for, by the Secretary of State's letter to him, of January 4th, he was expressly invited to enter into such arrangement, respecting two important points.

In fine, it distinctly appears, that Mr. Onis found himself empowered to discuss every point, but not to conclude on any one separately, or on the whole in mass. This certainly did not accord with the just expectations of my government, founded upon the declarations of Mr. Cevallos, when he transferred the negotiation to Washington.

But I refrain from dwelling more particularly on this matter, and pass to that part of your excellency's note, which contains a proposal for arranging our differences here.

With a view to the most speedy termination of these differences, you propose, that without suspending, or delaying the instructions which are to be sent to Mr. Onis, we now enter upon the negotiation, and you ask me whether I feel authorized to confer with you on the matter, and to conclude an arrangement. Instructed of the invariable desire of the President, to regulate by treaty all the grounds of difference which have unhappily so long subsisted between the two countries, and to establish their relations of peace, on the most solid and permanent basis; and being also well persuaded of the sincerity and conciliatory disposition which dictate this proposal, on the part of your excellency, it is my duty to promote the object of it, as far as may be in my power, and I do not hesitate to explain myself to you, on this head, with the utmost frankness.

The powers and instructions which I received from my government, as announced in my letter to Mr. Cevallos, of August 26th, 1816, have not been revoked: but your excellency understands perfectly well, the situation in which I am placed, as regards these, by the refusal of your predecessor to treat here, and by the powers which he sent to Mr. Onis. You will clearly perceive, that I cannot do, or consent to, any act which may have the least tendency to retard, in the smallest degree, the arrangement so much desired, consequently that I ought to avoid entering into regular discussions on the several subjects of my note of August 26th—discussions which must needs occupy a great deal of time, and consequently delay the departure of Mr. Noelli; for I presume, that it cannot be within your plan, that he should depart, pending such discussions, and thus produce all the difficulties, embarrassments, and interminable delays of a double negotiation.

Connected with this, is another consideration of major importance; your excellency is fully aware, that the transfer of the negotiations from Madrid to Washington, in the last year, had the appearance of an unnecessary procrastination, and that the subsequent discovery of the insufficiency of Mr. Onis's instructions, might even seem to justify the reproach of its being a studied one;—now, the retransfer of the negotiations to Madrid, unless we are perfectly certain that they will terminate favorably, will, as far as it may tend to create further delay, necessarily have the same effect in augmented force. I am confident that such a course, is neither in the policy or character of your excellency; it is necessary, however, for me, to pronounce myself explicitly on these points.

The Secretary of State of the United States, in his letter to Mr. Onis, of January 25th, has observed, that Mr. Onis had agreed with him, that any further discussion of subjects which had been so often discussed and completely exhausted, would be useless, since it could not be presumed that any change of opinion, on any point, could take



place on either side. Each party understands its rights, and has doubtless made up its mind, as to the conditions which it is willing to adopt."

Within the rule, therefore, which this paragraph points to, I am disposed to act. I presume your excellency's plan to be substantially the same, and your proposal to have been suggested by, and founded on, that which you understand the Secretary of State of the United States, to have made to Mr. Onis—indeed, you have expressed yourself on both of them, in nearly the same terms.

Thus, when his majesty's cabinet, shall have determined on the instructions to be given to Mr. Onis, it will have determined on the conditions on which the treaty shall be made—then if your excellency will offer to me the basis of an adjustment, I will say instantly, whether I can, or cannot accede to it, or will propose to you such modifications of it, as my instructions may require, and his majesty's government may find to be admissible.

In these transactions, we shall, as your excellency has well observed, take for our guide considerations of reciprocal convenience, each of us keeping in view the rights of our respective governments; these being perfectly understood by both of us, and no discussion being necessary to fix our knowledge of them, we shall avoid reproducing the motives of disagreement to which you allude, and by this knowledge, we shall also regulate the concessions which either may be disposed to make.

Thus, we may terminate instantly, and in perfect harmony, all causes of present complaint, and all grounds of future misunderstanding; and, in a manner satisfactory to both governments, lay a secure foundation for those friendly relations, which they are equally desirous to maintain.

I renew to your excellency, assurances of my very distinguished consideration.

(Signed)

GEORGE W. ERVING.

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(Translation.)

*Mr. Pizarro to Mr. Erving, dated July 27, 1817.*

SIR,

I have received your esteemed note of the 19th instant, in which you are pleased to reply to mine of the 16th, and I observe by it, that we are animated with equal sentiments and desires to see the different questions pending between our two governments, satisfactorily and honorably terminated. With these dispositions on either side, it

will not be difficult for us to arrive at the desired arrangement, provided it is accompanied with a due impartiality of judgment on the matter produced by each of us in support of his rights and pretensions.

I allow that a *prolix discussion* on the points which have been heretofore agitated, may be dispensed with, although subsequent circumstances have not failed, considerably to change the state of the question; but I cannot persuade myself, that it will be the shortest, or the easiest method, to present on either side a project of an arrangement of the whole, without a previous examination, or conference in which, at least the points in question, and the actual state of them, should be ascertained and settled, and those on which we agree, and those on which we disagree, should be determined on, and a summary view given of the reasons and grounds of our diversity of opinion. This knowledge is the only rule by which we, our governments, and the world, can determine upon the propriety or impropriety of the conditions of settlement which may be proposed to you, or of those which, on your part, you may judge proper to propose to me, if you do not conform to those offered by me.

This, I believe, was your mode of thinking, and appears also to have been the orders and instructions of your government, when in your note of the 26th August last, you were pleased to say to my predecessor, "I am specially instructed to discuss and to settle with your excellency, all the ancient causes of misunderstanding, as well as the questions growing out of recent occurrences, which are of a character unfavorable to the object in view;" and in another part you add, "a frank exposition of all the grounds of complain, is at once the most just and most judicious course, for, to suppress or to smother any of them, in condesention to temporary considerations, is but to leave the seeds of future discord, and to substitute palliatives and expedients for satisfactory and solid arrangements."

Though the urgent occupations which at that time engaged the attention of the ministry did not allow of its entering with you into the desired discussion; yet his majesty did not disapprove of the method and idea proposed by you; on the contrary, the very same served as a rule for the conduct prescribed to Don Luis de Onis, the seat of negotiation only being changed, that is, instead of its being carried on at Madrid between you and the secretary of state of his majesty, it was to be carried on at Washington, between the Secretary of State there, and the minister of the king.

Don Luis de Onis, to whom was prescribed the said conduct adequate to your proposition, could not but notice the considerable difference between what he had been thus advised of, and the manifestation which was forthwith made to him by that government, *of its considering any discussion to be useless, since it was not to be presumed, that either party would change its opinion*, and this circumstance has been one of the motives which has obliged him to solicit instructions more suited to the present dispositions manifested by that govern-

ment, as I had the honor to state to you in my note of the 16th instant.

I give due weight to what you are pleased to indicate to me relative to your situation after the occurrences which have intervened; but I also think, that animated with the same zeal for the *true interest* of our governments, we may in a short time, do much, and without considerably retarding the departure of Don Luis Noeli, we may arrive at some conclusive result, or at least, facilitate the conclusion of the negotiation.

In my opinion, the object would be promoted by a short discussion, in which we shall establish the points of controversy, and the respective grounds of them, before presenting any plan of arrangement; but if you think differently, I have no objection to make out a project of arrangement, though it will carry with it the inconvenience of not having been preceded by an examination of the solid foundations, on which, I believe, I am able to support it; at the same time, the instructions which Don Luis Noeli is to carry to the minister Onis, will be preparing; for the intention of his majesty is, that no means or mode should be neglected, which may produce an arrangement, providing, that the conditions of it be compatible with the interest of his vassels and the honor of his crown.

I renew to you, &c. &c. &c.

(Signed)

JOSE PIZARRO.

*Palace, 27th July, 1817.*

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*Mr. Erving to Mr. Pizarro,*

*Dated Madrid, July 29th, 1817.*

SIR,

I had the honor to receive, yesterday evening, your excellency's note of the 27th instant

Respecting what is contained in my note of the 19th instant, in reply to the proposal which you was pleased to make to me in your note of the 16th instant. you observe, that though a prolix discussion of the several points in question between our two governments, may be avoided; yet, that previous to any project for the arrangement of them being presented, it might be well for us to enter into some examination, and come to some agreement upon each of them. You deem this mode to be necessary for the justification of our proceedings before our respective governments, and you conclude, that it is the one which I had in view in my note to your predecessor, of August 26, 1816. You go on to remark, that though the urgent occupa-

tions of that minister at the time, prevented his adopting my plan; yet, the same was given for a rule of Mr. Onis's conduct, in the negotiation then transferred to Washington—and, that it was not, till Mr. Onis found the government of the United States indisposed to renew discussions on subjects which had been so completely exhausted, that he thought proper to send home for such further instructions, as might enable him to treat in the mode proposed by the Secretary of State.

Your excellency will permit me to remind you, that all the principal points put forward in my above mentioned note, to Mr. Cevallos, had been most minutely and repeatedly examined and debated, and that one of them had been adjusted by a convention made here, in the year 1802, during the ministry, and through the agency of Mr. Cevallos himself; that subsequently, viz: in the year 1805, Mr. Cevallos being still minister, the United States, with a desire of regulating by treaty all those questions, sent Mr. Monroe (late Secretary of State) as minister extraordinary to this court—and that in the negotiations which then took place at Aranjuez, all that learning and ingenuity could produce, were exhausted in controversy. Little remained then for me, but to reproduce the subjects of complaint, and to support them wherever they might be contested, by the ample materials which had been furnished by those who had gone before me; at the same time, a reasonable hope, founded on the assurances of Mr. Onis, was entertained by my government, that the Spanish cabinet would readily consent to forego all irritating questions; the same sentiment was, therefore, expressed in my communication to Mr. Cevallos, and it had evidently a view to the prompt termination of the negotiation. As to the motives which may have induced Mr. Cevallos to decline negotiation, I am bound to consider as valid those which your excellency has offered. They are not, however, such as he thought proper to allege, in his note to me of September 15, 1816; he founds his determination on a passage in Mr. Monroe's letter to Mr. Onis, of June 10th, the very letter in which the Secretary of State, after expressing his regret that Mr. Onis had not power to negotiate, informs him of my appointment for that purpose. How Mr. Cevallos could have construed this into a desire of the President to remove the negotiation to Washington, thus rendering useless the instruction, which it was announced had just been given to me, I am wholly at a loss to conjecture; but certain it is, that no other plea was offered for the very extraordinary measure then taken, than his majesty's desire to accede to the wishes of the President.

I understand your excellency to intimate, that the plan of negotiation, proposed by me to Mr. Cevallos, having been approved by his majesty, and given to Mr. Onis, as a rule for his conduct, no change of policy, or disposition in this government, is to be inferred from its removing the negotiation to Washington, that it was a mere change as to place, which is not important.

On this, your excellency must allow me to observe, that Mr. Onis himself, after he had received his powers, confessed, in a note

of February 10th, to the Secretary of State, that he was entirely ignorant of what had passed between Mr. Cevallos and me. If you will revert to the correspondence, you will find abundant proof, that Mr. Onis was not placed in the situation which you have supposed.

In my note to Mr. Cevallos, of August 26, 1816, I told him, that I was "*especially instructed to discuss and to settle.*" In that of September 19, that I could in "*no case be under the necessity of referring to my government for future instructions,*" &c. I expressly asked the minister, whether it was his majesty's intention to place Mr. Onis "*in a position equally favorable to the speedy adjustment of our differences?*" Mr. Cevallos did not pretend, that such was his intention; and, in fact, we find by Mr. Onis' correspondence in several places, but most distinctly in his letter of February 21, to the Secretary of State, that he had no instructions whatever. In that of February 10th, he even makes conjectures, as to the mode in which they may have miscarried; in that same letter, he also makes conjecture, as to the motives which his government may have had for transferring the negotiations to Washington. And thus, sir, it is also made evident, that Mr. Onis has sent home for instructions, because he had them not; not because he has made any new discovery as to the views of the American government, with respect to the mode of conducting the negotiations.

Certainly, after all the discussions, which had taken place upon all the points in contest between the two countries, it was no extravagant expectation in the government of the United States, that the Spanish government was prepared for an arrangement, and that no more time was to be lost, in reconsidering matters, which had been so often considered. "Yet, withall, in consenting, in the year 1816, to treat in this way with Mr. Onis himself, on the great question of boundaries, the claims of the United States, on that point, are very particularly insisted on in the Secretary of State's letter to Mr. Onis, of June 10th of the same year. I beg leave to call your excellency's attention to that letter. It was, after that attempt to settle the point had failed, from the impossibility of coming to an agreement, created by the very extraordinary pretensions set up by Mr. Onis, and after he had declined to enter into any negotiation for the claims of the United States, on account of spoliations and the suppression of the deposite at New Orleans, that the Secretary of State wrote to him the letter of January 25th, which your excellency has quoted; and even in that very letter, he anew invites Mr. Onis to negotiate on the points mentioned in his preceding letter of January 14th.

Your excellency will see then, that the American government has never avoided discussion, when it might tend to any useful purpose, but that it has avoided all controversy, which could produce nothing but irritation, and that it declined to continue to agitate these questions with Mr. Onis, only when it saw that he had no authority to terminate them by an arrangement.

Had Mr. Cevallos made to me the proposal, which your excellency now makes, I had readily accepted of it, and I presume that it might have led to an happy result; but by the course which that minister took, I have been left in a situation of peculiar delicacy; and of this, I perceive that you are fully aware. It is not in my power to treat these subjects now, as I would have treated them at that time; this were to retransfer the negotiations to Madrid, the inconveniences of which I have pointed out in my note of the 19th inst.; to this purpose my instructions are not competent. It is, therefore, that, though animated by the same conciliatory dispositions, which are manifested by your excellency, and though equally anxious to contribute to the desired result, I have yet felt myself obliged to confine myself to the simple proposal contained in my last note.

You are now occupied in forming instructions for Mr. Onis, which, as you are pleased to explain, are to be calculated to enable that minister to conclude a treaty with the government of the United States, on principles of reciprocal accommodation, without renewing controversies, with which both parties ought to be completely fatigued. That being so, it will be quite easy, as appears to me, for your excellency to accede to my proposal.

Your instructions render discussions at Washington unnecessary; they cannot then be necessary here; they will contain in effect the terms of a treaty. The same may then be proposed here, with a view to saving of time, and to avoiding the possible delays pointed out in your note of the 16th. You will, of course, found your instructions on a thorough knowledge of antecedent discussions. I, on my part, am fully informed on the claims of my government. You are also well acquainted with the extent of those claims, and of the ground on which they repose. I can have nothing new to offer to you on the subject. We bring into our communications a reciprocal spirit of conciliation, and a mutual conviction, that the questions in dispute are susceptible of an adjustment, which will establish on a solid foundation the friendly relations between the two countries. Your excellency cannot fail to conform to the wishes of your sovereign, whose daily orders you have the advantage of receiving. And I, on my part doubt not, but that in accepting an arrangement, which shall secure the rights and honor of the United States, I shall meet with the approbation of my government.

I renew to your excellency assurances, &c. &c.

(Signed),

G. W. ERVING.

(Translation.)

*Don Jose Pizarro to Mr. Erving.*

SIR,

I answer to your esteemed note of the 29th ultimo, and to conform with your wishes, I shall proceed to present you in this letter, with my ideas as to the plan of an arrangement which may at once terminate in a friendly way, with reciprocal utility, and without leaving seeds of discord for the future, all the questions pending between the two governments. My desire to please you induces me to make it in this form, although I am persuaded that any method of proceeding is premature, which deviates from that indicated in your letter of August 26th, of the last year, and that the sure method of arriving at the arrangement desired, is, as I had the honor to tell you in my note of the 16th June last, "to take for our guide the perfect knowledge of the right of each party modified by considerations of reciprocal utility."

Allow me to observe first of all, that what you are pleased to express in support of the mode of thinking of your government, as to the points of discussion having been exhausted in the negotiation at Aranjuez in the year 1805, does not appear to me to be altogether well founded, for since that epoch, so great is the mass of documents and authentic and indisputable proofs, as well French as Spanish, which his majesty has collected respecting the subjects of that discussion, and particularly relative to the western boundary of Louisiana, that I doubt, whether there be a point which is susceptible of more exact and rigorous demonstration than the determination of the dividing line, which has separated, and separates Louisiana from the province of Texas and the other Spanish possessions in that part of the continent, as I will have the honor to show you, in the event of our entering particularly into the examination of this question.

On the other hand, as I have already intimated in my note of the 27th ultimo, and as you have previously acknowledged in yours of the 26th August, the circumstances that have occurred since the year 1805, have considerably altered the state of the question, in nearly all the points of controversy.

To be convinced of this, it will suffice to reflect on the augmentation, since that period, of the claims for indemnity on account of losses, injuries, and harm suffered by the government and subjects of the two countries, in consequence of the excesses committed by individuals of both nations, against the law of nations and the existing treaty. You, on your part, in your aforementioned note of the 26th August, indicate some of these, and I will not enter here into the details of those which his majesty and Spanish subjects have to reclaim on their part, not only because this detail would be

now inopportune, but because the claims on both sides are to be subjected to the examination and judgment of the mixed commission which may be established to decide on them.

Besides this, posterior to the year 1805, the extraordinary event has occurred, of his majesty's having been unexpectedly deprived in the year 1810, during his captivity, of the pacific possession in which he was, of that part of West Florida which is between the river Iberville, the lakes Maurepas, Pontchartrain, and Bourne on the one side, and the river Perdido on the other. When the indisputable property of his majesty in the said territory was demonstrated, it was proved that Spain did not acquire it of France in 1763; that she received it of England in 1783, by a solemn treaty; that it was not and could not be comprehended in the "*retrocession of Louisiana*" made to France in the year 1800; that the government of France "*has declared so, officially,*" and in the most solemn manner, as well to Spain as to the United States; that the 5th article of the treaty of 1778, between France and the United States, opposes itself expressly to the *acquisition by France*, (though she had attempted it,) of said territory from Spain in 1800; that the royal *cedula* of his majesty issued in Barcelona, on the 15th October, 1802, for the delivery of Louisiana, (which royal *cedula* was in the hands of the French government before the United States thought of acquiring the colony,) did not contemplate the delivery of territory east of the Mississippi, than that of the "*island of New Orleans.*"

To these grounds which *have* established and do establish, in the clearest manner, the property of his majesty in the said territory, may be added those of his pacific possession without interruption. The delivery of Louisiana took place without the least idea having occurred to the French commissioners who received it of his majesty, for the purpose of delivering it to the United States, of aspiring to the possession of the territory between the Iberville and the Perdido; Spain continued, in the years following the delivery, exercising over it all her authority, and the United States respected this possession: a certain custom house regulation of the United States, in the year 1804, which seemed to contain some expressions susceptible of an equivocal meaning as to the rights of his majesty in the territory of Mobile, were reclaimed against on the part of the king, and the United States agreed to give a satisfactory and honorable explanation, as to the said expressions. Whatever might be then in that state of things, the pretension of right which might be formed against it, it did not appear to conform to the principles universally acknowledged to enforce that pretension\* *by means of acts*, and in truth, it was a painful duty for the faithful ministers of his majesty on his return from his captivity, to explain to him by what means and circumstances he had been deprived of the peaceful possession of the greater part of West Florida without war, or any stipulation which could authorize, having preceded it.

\* Note *vias do hecho* is French phraseology, *voie de faites*.



The king attributing this extraordinary event to the circumstances also extraordinary of the epoch which had intervened, flattered himself that the United States would not defer placing things in the state which they were in at the time he left his dominions, and the invasion of the peninsula by Buonaparte. The glory, and even the interests of the United States might equally incline them to this restitution, for a recent and costly experience has made the world see that there are no acquisitions of territory, however extensive, which can compensate the advantages to result from the reputation which those governments acquire who regulate their operations by principles conservatory of order and justice.

With these ideas, the king directed his minister at Washington, that, before he entered into the discussions which had remained pending, he should solicit the restoration of affairs in the state in which they were at the time of his absenting himself. This preliminary step appeared correspondent to the decorum of his majesty, and the United States could not fail to acknowledge it to be so, it being very certain that the delicate honor of the American government would not consent, in a similar case, to enter into other negotiations, finding itself inquired in the pacific possession of even one mile of its acknowledged territory, without first soliciting and obtaining the due restoration.

Notwithstanding this, and that the answer of the Secretary of State, of 19th January, 1816, is far from containing the satisfaction and restoration which Spain had reason to expect; his majesty, to give unequivocal proofs of his moderation, and of his friendly dispositions towards the United States, without renouncing, as he does in no way renounce, nor will renounce, unless in the case of some compromise, the right of property and possession which he has in the said territory, has judged fit not to insist on his demand for the present, in the hope that this point, though in its nature it ought to be preliminary, may enter into the general arrangement with the others; but your penetration will acknowledge readily, that on this essential point, as in others, the state of the question is not what it was in the year 1805, new occurrences of such importance having taken place since that period.

You ought not then to be surprised, that Don Luis de Onis, seeing himself in the necessity of omitting all discussion, as well on the points already discussed, in the year 1805, as on the more recent occurrences, and invited to give his judgment on plans of adjustment presented by one or the other party, should believe that the instructions which he previously had, were insufficient, and even the intimation *advice* conformable to the contents of your note of 26th August, which was remitted to him with the powers; and that in this state he conceived himself without instructions to treat in the mode which, from the commencement he knew would be agreeable to that government: for though you are pleased to say, that it was by the note of the Secretary of State of January 25th, that Senor Onis

might observe that it was desired to avoid all further discussion, I observe by the letters which I have from that minister, that on the 6th of January he received the powers of his majesty, and that on the 10th of the same month, he advises that the Secretary of State had already in verbal conference, expressed his opinion, that discussion was useless, and that he had desired proposals and plans of arrangement to be made out, which were already making out on the 12th.

But leaving aside these incidents, which will be settled by the transmission of competent instructions to Senor Onis, I go on to propose to you as I have offered, the principal conditions of an arrangement, which, in my opinion, may terminate with reciprocal satisfaction, the pending questions. Although these will be sufficient to explain my mode of thinking, you will probably notice that, in some points they are diffuse, where I have thought it necessary to allude to the right from whence proceeds the proposal made, and that in other places they are succinct, where I have thought that details may be omitted for the present, which it will be necessary to enter into afterwards, if it be agreed to put in form the transaction, to clothe it with the correspondent authority; in which case we shall draw it out by common consent, in terms appropriate to our purpose.

*Project of conditions or articles of arrangement.*

1st. His catholic majesty, and the United States, carrying into effect, the convention which is pending since the year 1802, oblige themselves to the reciprocal indemnification of the losses, injuries, and prejudices produced to the government, or subjects of either country, in consequence of excesses committed by individuals of either nation against the law of nations, or the existing treaty, comprehending in this reciprocal obligation, not only the epoch to which the said convention of 1802 refers, but also indemnities for posterior excesses of the same kind, committed by individuals of either nation, from such epoch till the day in which the present convention shall be settled and signed.

2d. To admit, to qualify, to judge, and definitively to decide, on the reclamations of this kind which shall be presented, as well on the part of the government and vassals of Spain, as on the part of the government and citizens of the United States, a commission of five members shall be created, of which two shall be freely nominated by the government of the United States, and two in the same manner by the government of his catholic majesty, and the fifth by mutual consent; and in case both governments cannot agree on the person to be designated for fifth commissioner, one shall be named on each side, and the final election of one of these be decided by lot; but the two persons so named shall have the following qualifications. 1st. They shall be neither Spaniards nor citizens of the United States, either by birth or naturalization. 2d. They shall be by their profession and actual occupation, judges, such as in maritime and commercial states are accustomed to examine and decide in matters of

public law and maritime affairs, whether from France, England, Russia, Austria, or the Low Countries. 3d. The nomination of the person shall be accompanied with a certificate of the government of the country to which he belongs, by which shall be accredited the opinion there entertained of his integrity and sufficiency, of his quality and actual employment of judge in the said matters, and with a certainty that he may have permission to discharge the duties of the commission, in case the lot should fall on him.

In case the American government shall prefer that the commission be composed of seven persons, then the 5th, 6th, and 7th, shall be elected by the same method, and have the same qualifications as are indicated for the 5th in this article.

3d. The substance of the two preceding articles, is taken almost literally from the convention drawn up in 1802; and from the same convention may be taken, strictly to the letter, all that is expressed in it, respecting the rules which the commission is to observe from the moment of its installation, till its dissolution after the faithful and impartial discharge of its duty

4th. His catholic majesty has no difficulty in consenting also, that the same commission should decide on the reclamations arising from the losses said to have resulted from the suspension of the deposite at New Orleans, decreed by the intendant of Louisiana in the year 1802, in the part of his decree which is reputed to be contrary to what is stipulated in the treaty of 1795; provided it is not desired to attribute to said suspension, the prejudices produced by false rumors of a suspension in the navigation of the Mississippi, which never existed; and the rumors of an early rupture, which some bad intentioned persons delighted to propagate at that time, in the territory of the United States; for the bad effects and prejudices resulting from such false rumors, can only be attributed to the authors of them.

5th. His catholic majesty having received from the government of France, on different occasions, the *official and explicit declaration*, that the injuries supposed to have been brought on the government and citizens of the United States by the French corsairs, agents, and tribunals on the coast of Spain, had been comprehended and settled with all others, in a convention made in 1800, between France and the United States, respecting the reclamations of the American government, it follows as well from this circumstance, as from others which were previously manifested, that this point should be excluded altogether from the pending negotiations. But, if the government of the United States, still insist in not considering itself satisfied for the said injuries, the natural course and order of the business appears to be, and has always been, that the American government should apply on it to the government of France, (to whose advantage, and to that of its subjects, the product of those depredations, if they existed, was converted,) and his majesty fulfilling on his part, what is provided by this case, by the 6th article of the treaty of 1795, obliges himself to employ his efforts in union with the United States, to reclaim and

cause to be restored to the legitimate proprietors the value of the vessels and goods which were taken from them; provided that these reclamations have not been extinguished by the said convention of 1800, as France has assured the government of Spain, in its repeated communications.

6th. His catholic majesty, master of Florida East or West, in all the extension in which he received them from England by the treaty of 1783, and which they had in possession of Great Britain before said treaty, will be willing, for his part, to cede them with the same extension to the United States of America, in full property and perpetual sovereignty, provided, that the United States are equally disposed on their part, to cede in the same form to his catholic majesty that part of Louisiana, which is situated to the west of the Mississippi, and is the territory which lies between said river and the well known limit which now separates, and has separated Louisiana, when France possessed it before the year 1764, and even before the death of the king of Spain. Charles II, from the Spanish province called Texas; so that after these reciprocal cessions are verified, the course of the river Mississippi from its source to where it discharges into the sea, will be the only limit of the dominions of his catholic majesty, and those of the United States; and though the king could wish, that in the most southern part of said river, where it opens different branches or channels, before discharging itself into the sea, the separating line might be continued through the principal channel which passes by New Orleans, yet, his majesty desiring, in all that depends on him, to facilitate the arrangement, it may be agreed and stipulated, that the dividing line in the part where the Mississippi separates itself and flows into different channels, shall be established towards the western part, placing it in the middle of the arm, or channel called *la Fourche*, to where it discharges itself into the sea, all the delta, or ground of alluvion, situated on the east of said channel *la Fourche*, remaining in the power of the United States.

7th. As by the 8th article of the treaty of Utrecht, it is declared that for the future, all cessions, sales, or alienations of the Spanish territory in America, shall be null and of no value, Spain herself remaining without power to make them, and England obliging herself to aid the Spaniards, that the limits of their dominions in America, should be established and maintained as they were before the decease of king Charles II, and as the part of the Floridas situated on the east of the river Perdido, was a Spanish possession at the time of the decease of said king Charles II, and therefore is comprehended in the said 8th article of the treaty of Utrecht, it is not in the power of his catholic majesty to effectuate by himself, the cession mentioned in the preceding article, without the previous consent and agreement of the power, or powers, interested in the fulfilment of the said treaty of Utrecht, for which reason, it will be indispensable, in case that the United States shall accede to the proposed arrangement, to solicit and obtain the said consent of the power or powers interested,

and the derogation on this occasion, and for this sole purpose of the said article of the treaty of Utrecht, which in all other respects shall hereafter remain in full force.

8th. It shall not be permitted that vessels employed in cruising and committing hostilities against the Spanish government and vassals, or their commerce shall be armed or enter armed in the ports of the United States, and the vessels and effects, which such armed vessels may take from the vassals of his majesty, and which may be carried into the jurisdiction of the United States shall be embargoed and secured by the authorities of the same, and definitively delivered to the minister, or to the consul of his majesty, who may be at the nearest place, to hold at the disposal of those who may prove that they are the legitimate owners. And for the purpose of preventing and prohibiting clandestine armaments, which may be made in contravention of this stipulation, the United States promise to give the strictest orders to the officers to whom it belongs, to watch over and frustrate all attempts of this kind, the United States obliging themselves to detain all suspected vessels, without permitting their departure, till the suspicions respecting them shall have been cleared up, or till they have given bonds to the satisfaction of the respective consuls of his catholic majesty, guaranteeing, that they shall not commit such piracies and aggression against the vassals of his catholic majesty, who on his part obliges himself to do the same in the ports of Spain with respect to the United States.

9th. It being notorious that diverse American citizens, in violation of the law of nations, and of the stipulations of the existing treaty, in its articles 9, 12, 14, and 16, have occupied themselves for some time past in hostilities against the Spanish commerce and subjects, under the pretext and cover of certain unknown flags; and that others, with equal irregularity have carried and supplied arms, ammunition, and other aid to the rebels of some Spanish ultramarine provinces which are in a state of insurrection; several of said citizens having gone to the extent of taking arms, and acting openly in support of said insurrection, his catholic majesty does not doubt but that the government of the United States, disapproving of the conduct of said individuals, and animated by a spirit of justice, and of a religious observance of the law of nations, and of the treaty, will oblige itself, by an article of the present arrangement, to promulgate, and cause to be executed, decrees and orders, which may restrain and prevent, such excesses in future; in which way, also, may be avoided the reclamations consequent on the injuries occasioned by the same excesses. And his catholic majesty, in just reciprocity, will oblige himself on his part, to repress and prevent, in the same form, whatever excesses of the same, or a similar nature, his vassals may be guilty of, to the prejudice of the government and citizens of the United States, or of their commerce.

The preceding articles or conditions, fulfil, in my opinion, the proposed object, and embrace whatever is essential to terminate, honorably, and with reciprocal utility, the pending discussions, for

though there are some points of secondary and subaltern importance which ought also to be comprehended in the arrangement, it does not appear to be opportune to enter into them, till we are agreed on the most essential articles; and these, if the case should happen to clothe them with due authority, we will draw out by common consent, explaining them with the clearness, exactness and precision, which is requisite in a transaction, so important in itself, and in its consequences.

By this communication, which, pursuant to your suggestion, I have the honor to make you, as to the ideas of the government of Spain on an arrangement, or settlement of all the pending points, you will acknowledge the disposition of his majesty to terminate in a manner satisfactory, and reciprocally useful, the differences which have arisen; but if the American government, or you, who have been pleased to manifest to me, that you are instructed in its intentions, should not find in this project, the reciprocal utility which Spain has believed to exist in it, in this case, the king, constant in giving proofs of the rectitude of his intentions, proposes in the same spirit, another just, honorable, and conciliatory method, which the good faith of the American government cannot decline; for it is that which is commonly adopted by civilized nations, when they proceed with a sincere intention to settle in a friendly and impartial mode, their differences. This mode, by which will be also avoided the inconvenience pointed out by the American Secretary of State to the minister Onis, arising from the difficulty of overcoming in discussions, the attachment and tenacity of each party to its opinions, and to the pretensions which they have already advanced, is no other, than to submit on both sides, the points in question and the grounds of them, to the examination and impartial judgment of one or more powers, friendly to the United States and to Spain, chosen by common consent, and who shall definitively decide upon the justice and extent of the pretensions of both governments; to which end, there shall be sent by the United States and by Spain, commissioners to inform the power or powers chosen for arbitrators of their respective rights, each engaging in advance to abide by their decision; or otherwise that by common consent, they (two parties) should solicit the mediation of one, two, or more powers, friendly to both, that by means of this impartial intervention, we may arrive at the desired arrangement. The United States cannot but acknowledge the propriety of this proposal, which, besides, that it carries with it the character of good faith, is substantially the same which in a similar case, the American government has adopted for the deciding of points of the same nature, in the articles 4, 5, 6, and 7, of the treaty concluded at Ghent, on the 24th December, 1814, between the United States and Great Britain.

I persuade myself that in all I have said, you will see, and your government will also see, evident proofs of the real desires, which animates his majesty to live in harmony with the United States, establishing for the future an order of things of a nature to avoid the

easy reproduction of motives of disagreement. I hope that you also, in the disagreeable event of not considering yourself to be sufficiently authorized to conclude with me here, the desired arrangement in the sense of the articles stated, or to agree to the decision by arbitration or to the mediation which I have proposed, in reporting to the government of the United States this communication, will think fit to support it with the observations which your known earnestness, to promote the harmony and prosperity of both countries, will dictate, so that Don Luis de Onis, to whom will be sent instructions analogous to the principles of justice and mutual convenience, which I have laid down in this letter, may find greater facilities for arriving at the desired object, and thus we may both see established, upon solid and permanent ground, harmony between two nations, which have the greatest interest in preserving it, and none in leaving seeds of discord, produced rather by unfortunate circumstances, than by the intention of their respective governments.

I cannot conclude this letter, without manifesting to you another signal proof of the friendly dispositions of his majesty towards the United States, and that is, that the re-establishment of the *statu quo* of 1792, and the annulment of various innovations and political changes, introduced by the abhorred tyrant of France in the epoch of his fatal domination, having been acknowledged by all the powers, as a base to secure the peace of the world; and on the other hand, it being evident the artifice with which he (Napoleon) forced from Spain, Louisiana, under pretext of an illusory exchange, as also the promise which he made, and soon after broke, not to alienate that colony, the king, my master, notwithstanding these considerations, and that neither the kingdom of Etruria, nor any equivalent for Louisiana, dismembered from his dominions, has been secured to him, or for the other sacrifices made at the same time, has abstained from making any demand on this point, on the ground of the *statu quo* of 1792; on the contrary, is disposed, if the United States desire it, to renew, by an express article of the convention, in which the pending questions shall be settled, the past stipulations respecting Louisiana, correcting by this means whatever defect they might have been affected with in their origin.

I profit of this occasion to renew to you, &c. &c.

(Signed)

JOSE PIZARRO.

Palace, 17th August, 1817.

To the Minister Plenipotentiary  
Of the United States of America.

(Copy.)

*Mr. Erving to Don José Pizarro.*

*Madrid, August 19, 1817.*

SIR,

I have had the honor to receive your excellency's letter of the 17th instant, in which you are pleased to communicate to me the outline of such a plan of adjustment of the several questions existing between the two governments, as you believe to be well calculated to effectuate our common object of restoring a perfect good understanding, and laying a foundation for perfect harmony.

As in my notes of the 19th and 29th July, I have fully explained to you the absolute impossibility in which I have been placed, by the transfer of the negotiations to Washington, of entering with you into regular discussions, and as your excellency has well understood, and had due consideration for the motives, which have determined the course that I have observed in this respect, I might with propriety now confine myself to the merely assuring you, that I am not able to accede to the basis which you have proposed, and taking that basis as the result of the deliberations of his catholic majesty's cabinet, to the expression of my very sincere regret, that it differs so widely from what would be reasonable in the view of my government; I might add that even if I were authorized anew to engage in these discussions, your excellency's project would scarcely offer me a hope of coming to such an arrangement, as might satisfy the just expectations of the United States; for, as appears to me, in its leading features, it does but formalize the views more loosely exposed by Mr. Onis, on which the opinion of my government has been already pronounced.

Nevertheless, I am induced, by the manner in which your excellency has stated the pretensions of Spain, as well as by respect for your personal character, to make a few remarks upon the chief articles of your project, that you may thus be the more completely convinced, that it is out of my power to adopt it, and in the hope that your dispositions to conciliation may induce you to model your instructions to Mr. Onis on a plan altogether different.

And firstly, permit me to correct a misapprehension, in which your excellency seems to have fallen, with regard to my note of August 26, 1816, to your predecessor. You think that I have therein acknowledged, that occurrences which have passed since the negotiations at Aranjuez, in the year 1805, have considerably altered the state of the question on nearly all the points of controversy. In the commencement of that note, after announcing the disposition of the President to enter into arrangements, which should lay the foundation for a lasting good intelligence between the two countries, I informed Mr. Cevallos, that I was "specially instructed to discuss and to settle" all causes of misunderstanding, as well of ancient as of re-



cent date. I then proceeded to state the principal points, on which I was so authorized to negotiate, and, finally, more concisely to enumerate those before alluded to as of recent date; it was my intention to show, that the causes of complaint had multiplied and been aggravated, but not that the state of the question on the points which had been previously discussed at Aranjuez, had been thereby altered; nor can I now see in the circumstances particularized by your excellency as grounds of complaint on the part of Spain, any reason for assent to such an opinion. The claims of Spanish subjects on the American government, and of the Spanish government for *excesses committed by individual citizens*, which you advert to as posterior to the convention of 1802, I was wholly unaware of. Your excellency will thus perceive, that it were impossible for me to accept of your first article, providing for a species of claims never before brought into view, and for others of a nature entirely novel; hence I may abstain from any remark on the new and difficult mode of forming a commission by the second article. But much less could I pretend to engage my government as proposed by your fifth article, to relinquish its claims on Spain for indemnities on account of French spoliations within her jurisdiction, a claim in its nature so indisputable, and in lieu of it resort to the hopeless resource of asking compensation from the French government, which, as you state, has declared that same claim to have been already satisfied.

With respect to the very important question of limits, your excellency observes, that since the discussions at Aranjuez, this government has accumulated documents, as well French as Spanish, more especially respecting the western boundary of Louisiana, which render that line susceptible of the most exact and rigorous demonstration. Your excellency has not defined exactly the line so made out, nor can I pretend to have an opinion respecting these new proofs which I have not seen, but I ought to presume, that they have been long since communicated to his majesty's minister in America, and that he has derived all the utility from them, which they are capable of affording; nevertheless, I have not observed the effect of them in the various communications of that minister to the Secretary of State of the United States, wherein the question of boundaries is discussed or touched on; and your excellency must have seen, in the Secretary of State's letter to Mr. Onis, of June 10, 1816, to which, in my note of 29th July, I took the liberty of requesting your particular attention, that the claims of the United States, as to the western boundary, are not only reasserted in such a way, as to show that they have not been affected by any new evidence which has been produced, but that in the same letter, to avoid the useless repetition of reasoning, which had not been shaken, express reference is made to the notes of March 8th, and April 20th, passed at Aranjuez in the year 1805. Your excellency will perceive, also, by the Secretary of State's letter to Mr. Onis, of January 14th, of this year, that even down to that date no change of opinion had been effected by whatever, either in conversa-

tion or by writing, Mr. Onis had been able to advance in favor of the pretensions of Spain on either boundary; on the contrary, that then the discussion was closed from the utter impossibility of coming to an agreement on the subject.

Hence your excellency will see how little in my power it can be to accede to your sixth article, founded on the supposition, that the United States own but a comparatively small territory on the western bank of the Mississippi, but which, in fact, requires a cession of that vast extent, which lies between the Rio Bravo and the Mississippi, in exchange for what his majesty owns of the Floridas; and how still less possible it were for me to accept of that article, embarrassed with the conditions which your excellency would annex to it by the seventh, upon a plea which I never before heard of, and cannot now comprehend; for it appears to me that the reference which you would make, is perfectly gratuitous. Your excellency speaks, I suppose, of that treaty of Utrecht, which was concluded *July 13, 1713*. I understand, that the sole object of the eighth article of that treaty was to place the commercial relations between Spain and Great Britain on the same footing, which they had had in the time of his catholic majesty Charles the second; the more effectually to secure to Great Britain the advantages which she was to derive from that state of things, every extension of the French commerce in the Spanish American colonies is prohibited, and consequently any transfer of territory directly to her, or through any other power to her, is also prohibited. The motion for this stipulation is very clearly expressed:

*“ Y paraque la navegacion y comercio  
a las Indias occidentales quedan  
mas firme y ampliamente asseguradas.”*

These are the words of the treaty and determine the construction which is to be given to the stipulation; consequent on this and in pursuance of the same object, was the obligation which England entered into to *solicit* and *aid*, (“*solicitar* y *clara ayuda*”) with a view to restore the state of these possessions to what it was in the time of Charles 2d; if perchance they had undergone any dismemberment since that period, her obligation does not go further.

*“ Si acaso se hallare que en algun  
modo, e por algun pretexto  
hubieren padecido alguna  
des membracion e quiebra  
despues la muerte de dicho  
rey Catolico Carlos Segundo.”*

Thus the purpose of this 8th article was nothing more than to place the commerce of the colonies, in as far as Great Britain and France were concerned, upon its former footing, and the territorial possession in the state it was left in by Charles the 2d; the obligation

of Great Britain on this latter point ceased, of course, as soon as the object of it was attained.

With respect to the 8th and 9th articles of your excellency's project, I will only observe, that no stipulations can be necessary. The United States have done, and continue to do, all that their neutral position and good faith can require, and where the existing laws of the country have been insufficient, there new provisions have been enacted as you have seen by the law of Congress of March 3d, (called "*An act more effectually to preserve the neutral relations of the United States,*") which I have had the honor to communicate to you.

As to the alternative which your excellency proposes, on the supposition that your plan may not be acceded to, of referring our differences to the arbitration of other governments, it is certainly unnecessary for me to assure you that I have no powers or instructions which can authorize my speaking on the matter.

Having, as I trust, now said enough to convince your excellency that your proposals are wholly inadmissible, I refrain from a variety of other observations which your letter has naturally suggested, desiring not to agitate questions which are only fit for discussion where there is a possibility of eliciting from it the grounds of accord.

I renew to your excellency, assurances of my distinguished consideration.

(Signed)

GEORGE W. ERVING.

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(Translation.)

*Don Jose Pizarro to Mr. Erving.*

SIR,

At the same time that I received your esteemed note of the 19th of this month, I received your private note of the 23d. By the first, I have seen with pain, that you not only do not think that you are authorized, since the transfer of the negotiation to Washington, to enter into a methodical discussion of the questions depending between our governments, but you do not deem admissible by you, the project of arrangement, which, to comply with your desire, I presented in my note of the 17th—and finally, that you can say nothing as to the arbitration or mediation which I have at the same time proposed, as the most sure means of terminating in an honorable and conciliatory mode, the existing differences. In my opinion, it were

easy to combat and to dissipate the objections, which you are pleased to make to my said proposals; but in the actual state of the business, it has appeared to me more proper, to hasten the departure of Don Luis Noelli, with suitable instructions for the minister of his majesty in the United States, founded on the knowledge of the respective rights, in considerations of reciprocal utility, and in the desire of an arrangement by honorable, impartial, and conciliatory means. His majesty hopes, that the government of the United States will do justice to his sentiments, and will be convinced of the rectitude of his intentions. As in your private note you are pleased to express a desire to know the exact day of departure of Don Luis Noelli, I ought to tell you, that he will depart within four days, calculating from tomorrow, and that he will take charge of whatever commission you may put under his care, and execute it with the same punctuality as mine.

I profit of this opportunity to renew to you, &c. &c.

(Signed)

JOSE PIZARRO.

*To the minister of the  
United States of America.*

*Palace, 31st August, 1817.*

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No. 3.

(Translation.)

*Don Luis de Onis to the Secretary of State.*

SIR,

The mischiefs resulting from the toleration of the armament of privateers in the ports of this Union, and of bringing into them, with impunity, the plunder made by these privateers on the Spanish trade, for the purpose of distributing it among those merchants, who have no scruple in engaging in these piracies, have risen to such a height, that I should be wanting in my duty, if I omitted to call your attention again, to this very important subject.

It is notorious, that although the speculative system of fitting out privateers, and putting them under a foreign flag, one disavowed by all nations, for the purpose of destroying the Spanish commerce, has been more or less pursued in all the ports of the Union, it is more especially in those of New Orleans and Baltimore, where the great-

est violations of the respect due to a friendly nation, and if I may say so, of that due to themselves, have been committed—whole squadrons of pirates having been out from thence, in violation of the solemn treaty existing between the two nations, and bringing back to them the fruits of their piracies, without being yet checked in these courses, either by the reclamations I have made, those of his majesty's consuls, or the decisive and judicious orders issued by the President for that purpose.

The American privateer "Swift," which, as I mentioned to you, in my note of the day before yesterday, had captured, under the name of the "Mongore," and the flag of Buenos Ayres, the Spanish polacre "Pastora," just arrived at New Bedford, is now in Baltimore river, and her captain, James Barnes, who has so scandalously violated the laws of nations, the neutrality of this government, and the existing treaty, has had the effrontery to make a regular entry of his vessel at the custom house of Baltimore, declaring his cargo to consist of bales and packages containing silks, laces, velvets, and other valuable articles, all, as you may suppose, plundered from the Spaniards.

The three masted schooner, called the "Intrepid," lately arrived at New York from Montevideo, is, as his majesty's consul there, informs me, the Spanish vessel called the "Leona," captured off Cadiz by the schooner "Orb," of Baltimore, whose armament I denounced to you at the time, and communicated the positive information I had received, that her object was to cruize against the subjects of the king, my master. This pirate, (for that is the name by which both nations have agreed to consider a privateer of this description) was armed at Baltimore, manned by subjects of this republic, and commanded by a Portuguese called Almeyda, an American citizen.

The schooner "Leona," now at New York, under the name of the "Intrepid," and ostensibly owned by one Miffing, at Philadelphia, had on board, when captured, thirty thousand dollars in specie, three hundred boxes of sugar, some grain, with other property, belonging to Moreno, de Moro, and others, merchants at Cadiz; and had a cargo of jerked beef, and other articles, belonging, as I have heard, to the merchants in Baltimore, who furnished the funds for equipping the "Orb."

The consul at New Orleans, informs me, that the pirate Mitchell, with the vessels under his command, fitted out by different merchants at that port, of whom a Mr. Dupuy is supposed to be the principal, has lately taken several Spanish prizes to Galveston, and that from the proceeds of their sales, he has remitted to the said deputies 105,000 dollars, which he has deposited in the bank of Louisiana, after deducting the shares of the captain and crew, amounting, as is supposed, altogether, to 200,000 dollars. The same consul adds, that two of the prizes, one from Campeachy, and the other from Guatimala, were burnt, and their crews landed by that savage monster, near Boquilla de Piedras, that they might be, as they actually were, put to death by his great friend, Villapinto, a noted rebel ringleader,

who, being pursued by the king's troops, had retreated to the seashore to make his escape. Of ninety men composing these crews, only nine were saved.

The consul, at Norfolk, informs me of the arrival there, of a privateer schooner from Buenos Ayres, one of several fitted out at Baltimore, and wholly owned there; that from what he has been able to ascertain, among other vessels, she plundered a Spanish ship, laden with a cargo of cochineal, indigo, and specie, to the amount of more than two hundred thousand dollars—and proceeded to Baltimore to divide the spoil among the concerned. The said consul, in the discharge of his duty, and the exercise of his rights, addressed an application to the collector of the customs, copy of which is annexed; and also of the answer of the collector, by which you will perceive that he declines this just reclamation. I could cite innumerable other cases, as well attested as those I have just stated, but I omit them, as their detail would fatigue you, without tending to demonstrate more effectually, that they proceed from the non-observance by the officers of this government of the President's proclamation, and of the treaty of limits and navigation between the two governments. Although his majesty has too much confidence in the rectitude of the President, to doubt that due compensation will be made for these injuries to his subjects, on the same principles as have been observed by his majesty, on other occasions, towards the United States, yet, I cannot omit requesting, in his royal name, that in the mean while, the President may be authorized to take the most energetic measures required by the case, to put an end to these practices, and that he would be pleased to cause the vessels I have before mentioned, to be confiscated, together with their cargoes—and security to be given by Mr. Dupuy for the amount of his deposite in the bank of Louisiana, as being the proceeds of the Spanish prizes made by the pirate Mitchell; and that as a general measure, every privateer coming into these ports under a flag not acknowledged, be detained and sequestered, to be made responsible for the depredations committed by it.

I trust, that the President, will be the more disposed to accede to this request, as in addition to its justice, it is strictly conformable to his friendly sentiments towards my sovereign, and the humane principles by which he is characterized.

I renew to you my respects, sir, and pray God to preserve you many years!

(Signed)

LUIS DE ONIS.

*Washington, 2d January, 1817.*

*Enclosure in Don Luis de Onis' letter of 2d January, 1817.*

(Copy.)

*Spanish Consul's office,  
Norfolk, 16th of December, 1816.*

SIR,

On seeing an armed vessel in this harbor, in front of the town, displaying a flag unknown to me, and I will venture to say, unknown to the United States, and at any rate not recognized by them; and there being no doubt that this vessel is one of those known to be committing great depredations at sea on the Spanish trade, and frequently, also on ships of all other nations, not excepting those under the merchant flag of these states, I have thought it my duty to apply to you to request you to give me some information respecting said armed vessel; her character and nationality, and under what authority she navigates the seas as a public or private ship of war, who commands her, and how she is manned, and in what light you view her in your official capacity.

In making these inquiries of you, I hope that you will only see a desire on my part to acquire information upon a question of vast importance to the commerce of Spain, as it affects materially the safety of her merchant ships: whether or not those sea plunderers are to find an asylum in the ports of the United States, which would so greatly increase the means of carrying on their spoliations. I am confident that it is not the wish of this government to afford any sort of protection to a set of men, (for the most part foreigners to the country they pretend to serve,) who avail themselves of the dissensions which unfortunately prevail between Spain and some of her colonies, to exercise their merciless rapacity upon the inoffensive merchant, not only of Spain, but in many instances of other countries; and I am too well acquainted with your own character to suppose that you would be inclined to favor them. Indeed the intentions and good disposition of this government towards Spain, are rendered manifest in the President's proclamation of the 1st September, 1815; and it is there forbidden to American citizens to take any part in the contentions between Spain and some of her distant possessions; and it is enjoined on all officers, civil, and military, under the government, to be vigilant in searching out and bringing to punishment, all such citizens as shall act contrary to the intent of said proclamation; and there being a report in town that many of those composing the crew of the vessel in question are Americans; I have thought it necessary to call your attention to this point, not doubting that you will con-

sider it as meriting your particular examination. I will conclude by availing myself of this opportunity to assure you of the great respect with which I remain, sir,

Your most obt. humble servant.

(Signed) ANTONIO ARGOTE VILLALOBOS.

*Charles K. Mallory, Esq.*

*Collector of Norfolk and Portsmouth.*

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(Answer.)

*Collector's office, Norfolk,*

*December 16th, 1816.*

SIR,

I have had the honor to receive your note of this morning. In respect to the vessel which is the subject of it, I deem it necessary only to remark that she is recognized in this office in no other character than that of any other foreign vessel arriving in our waters from a foreign port; that my duty does not require of me to request her flag so far as to make it a criterion or condition of her admission into this port, and that I shall take care, in this, as in other cases, to see that the laws of the United States and other regulations of the government, so far as they come within the sphere of my authority be duly observed.

I reciprocate the sentiments of respect you express for me, and am very respectfully,

Your most obedient servant,

(Signed) CHARLES K. MALLORY.

*Don Antonio Argote Villalobos.*



(Translation.)

*Don Luis de Onis to the Secretary of State.*

SIR,

On the 1st instant, I informed you of the arrival at New Bedford of the Spanish polacre "Pastora," captured by the American privateer "Swift," under the name of the "Mongore," and the flag of Buenos Ayres, commanded by a captain Barnes, a citizen of these States. Two days afterwards I addressed to you another note, stating the arrival in the river and port of Baltimore of the said privateer, with the booty piratically plundered from the subjects of the king, my master, and requesting that you would be pleased to obtain of the President such orders, as would most effectually insure the confiscation both of the vessel and of the privateer, that they might be made answerable for the damages justly claimed by the owners of the property. Although I am persuaded, that it is the multiplicity of business that has prevented your answering my notes, yet I cannot doubt, that the President will have given the orders I requested in them. Notwithstanding this, and the application made by his majesty's consul at Baltimore, in the discharge of his duty, to the attorney for that district, a copy of which is annexed, I regret to announce to you, that the collector and the aforesaid attorney, have thought fit to allow the said pirate to depart, and that, after having ascertained that fact, the said attorney wrote a note to his majesty's consul, copy of which is enclosed, inviting him to call at his house to confer with him on the subject of his note.

It is not my wish to trespass on your attention with the reflections, that are naturally produced by such notorious proceedings, nor pointedly to notice the incivility of the attorney for that state towards a consul of my nation; my only object is to bring to your view what has occurred in the case of the vessel, that, by submitting it to the President, he may be convinced, that the injuries sustained by the king's subjects in these ports, by the violation of the existing treaty between the two nations, which has the force of a law, are daily augmenting, and that the more they are diffused, the more difficult will it be hereafter to adjust the indemnities due to his majesty's subjects.

I trust, sir, that you will only see in the step I now take, a continued proof of my desire to restore that good understanding and sincere sense of justice between the two countries, which form the basis of real harmony in every society, and that you will, therefore, be induced to give this subject all the attention due to its importance.

I beg leave to renew the assurances of my perfect respect, and pray God to preserve you many years.

(Signed)

LUIS DE ONIS.

*Washington, 15th January, 1817.*

(Translation.)

*Don Luis de Onis to the Secretary of State.*

SIR,

I have just received information from the king's consul at New Orleans, of the capture, within sight of the Balize of that port, and at little more than musket shot from the land, of the Spanish schooner "Hipolita," captain Don Buenaventura March, by the pirate "Jupiter," under the Margarita flag. To enable you fully to judge of the atrociousness of this capture, manifestly in violation of the territory of the United States, I have the honor to enclose the declaration of the captain of the said schooner, made before his majesty's consul at the aforesaid port; by which it appears he was at anchor in the Pass of the Mississippi, and with *Pratigue* from the Balize, on board, when he was boarded by the aforesaid pirate, and so inhumanly treated by him, as to be left weltering in his blood on the deck.

It would be superfluous to affect your sensibility by a detail of the multiplied injuries and outrages incessantly sustained by his majesty's subjects, in these ports; they have already been admitted by the President in his message to Congress, recommending the adoption of such measures, as in their wisdom may appear best calculated to repress them; thereby offering to the king my master, a pledge that his excellency admits the necessity of indemnifying them as far as possible. It is, however, with great regret, that I have to remark on the delay in carrying such urgent measures into execution, and that the injuries complained of, have not been prevented by a due observance of the laws of nations, and of the existing treaty, which, by the constitution has the force of a law in all the courts, in consequence of its ratification by the President and the Senate.

I pray you, sir, to accept the assurances of my perfect consideration. God preserve you many years!

(Signed)

LUIS DE ONIS.

*Washington, 16th January, 1817.*

(Translation.)

*Don Luis de Onis to the Secretary of State.*

SIR,

I have just learned, with the greatest satisfaction, that the marshal of Baltimore has despatched a boat with a picket of soldiers in pursuit of the pirate Mongore, which has been brought back to

that port, in conformity to the orders which I had flattered myself would have been issued by the President. I shall lose no time in giving an account to his majesty, of the friendly dispositions manifested by this government, and add the hope, that this evidence of it, will be the forerunner of sentiments calculated to remove every shadow of misunderstanding between the two governments.

I offer you, sir, the renewed assurances, &c. &c. and pray God to preserve you many years!

(Signed)

LUIS DE ONIS.

*Washington, 16th January, 1817.*

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(Translation.)

*Mr. Onis to the Secretary of State, dated 10th February, 1817.*

SIR,

In addition to the schooner *Hipolita*, which I informed you in my note of the 16th of last month, had been captured by the pirate *Jupiter*, in the pass of the *Balize* of New Orleans, at anchor, within musket shot of the land, I have just received official notice of the capture, by the same pirate, of the Spanish brig, called "*Regna de los Angeles*," proceeding from *Campiche*. This vessel was also at anchor in the *Balize*, very near the land, and with the pilot on board to ascend the river, but no consideration was sufficient to restrain that pirate, in his injustice. I am informed that commodore *Patterson*, in consequence of the reclamation made by the consul of his majesty, in the said port, has despatched a vessel in pursuit of her, and there are appearances that he will succeed in rescuing the prizes, and placing them at the disposition of their owners; but you cannot but know, that if the perpetration of this crime go unpunished, as has been the case on other occasions, or if their escape is permitted, as has happened in *Baltimore*, with the captain and crew of the pirate *Mongore*, neither the vassals of his majesty will be able to obtain the evidence which might be drawn from their declarations, in order to reclaim their property, nor the crimes discovered that they may have committed, nor the number of these robbers be diminished, who so highly compromit the neutrality of the government, robbing indiscriminately, the vessels of all nations, confident that all the harm that can happen to them is, that they should be deprived of some of the proceeds of their piracies.

In proof of the solidity of these assertions, I ought to add, that at the time these captures took place at New Orleans, in violation of the

territory of this republic, general Humbert, the chief of a band of robbers, armed and equipped, in the province of Louisiana, who had occupied Galvestown, had arrived at New Orleans, to solicit provisions and munitions for that establishment. Not only have they been sent under the American flag, but the agent, Mr. de Souvignet, has bought a brig with the products of the robberies of these pirates, which are now deposited in the bank of Louisiana, amounting to 180,000 dollars, as you will see by the annexed paragraph of the Gazette of New Orleans; and this vessel is preparing to carry more provisions and munitions to that establishment, and to take back to the United States, the spoils of the Spaniards, which are not considered secure, in that place.

In the port of Baltimore, the brig Peace, (Paz) mounting 16 guns, commanded by captain Stafford, well known for having before commanded the privateer schooner Maria, which was confiscated in Porto Prince, has been lately bought for the purpose of cruizing against the Spanish commerce. According to information which I have received, the brig called the 4th of July, has gone out of that port with the same object, commanded by captain Watkins, and armed by order of the famous Thomas Taylor, commissioner of Buenos Ayres: finally, schooner Romp, whose outrages and piracies are of public notoriety, has again sailed for Norfolk, with the design of equipping there, to proceed again on her cruize.

I consider it my duty to make you acquainted with all these acts, in which are in manifest contravention of the treaty existing between the two nations, to the end that the President, giving them the consideration which they deserve, may issue the orders that may appear to him best adapted to restrain them, until Congress determines to destroy them at the root, whereby the commerce of all nations may be secure.

I renew, &c.

(Signed)

LUIS DE ONIS.

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(Translation.)

*Mr. Onis to the Secretary of State.*

SIR,

When I had the honor to communicate to you, that in virtue of the orders which the President had sent to the marshal at Baltimore, the pirate Mongore had been detained and embargoed in that port, I had a right to believe that the marshal, as well as the attorney of the

United States, would have caused the captain and crew to be immediately arrested, to take from them the declarations which public vengeance, and the interests of Spain, as well as of this government, required, to ascertain the names of the vessels plundered by that pirate, the depository of the effects, and the fate of the Spanish crews.

You may consider what was my surprise on receiving positive information, that the marshal has liberated the captain and crew of that pirate, that he has not proceeded to take from them any declaration, and has even permitted that the *Mongore* should go to sea again, under bond, to commit her piracies. The said vessel is yet in the river, stopped by the ice, and her captain, *Barnes*, very tranquil in his house, occupied in taking out of it, publicly, the effects plundered by him, which, it is calculated, exceed eighty thousand dollars in value, without any impediment being put to his proceedings by the authorities at *Baltimore*.

It is extremely painful to me to interrupt your attention so often, on such unpleasant subjects; but I should be wanting in my duty if I should delay to inform this government of the manner in which the orders of the President are eluded in *Baltimore*, in order to heap injury upon injury on a friendly nation, and promote the revolution of its provinces. In vain will it be alleged, in order to cover this proceeding, that the laws are not sufficient to pursue, without a positive evidence, those citizens who commit hostilities against Spain: the treaty which exists between the two nations is a law of the republic, and no tribunal can decline its observance. The proofs of its infraction cannot be more manifest or decisive: the Spanish schooner captured by this same vessel, which is permitted to go out to sea, is now in a port of this Union, the effects on board of the one and the other belonging to the king's vassals; the seamen, the log-book of the respective vessels, and the captain himself, ought to give all the evidence that justice requires, to decide: if these are not examined on the equivocal pretext that they cannot be found, or that there is no evidence for proceeding against them, the consequence will be the continuation of an organized piracy for the robbery of all nations; that public vengeance will remain unsatisfied; and humanity exposed to all the horrors of such highway robbers.

I cannot do less than repeat my solicitation to the President, in the name of the king my master, that the corsair *Mongore*, may be secured, that the effects found on board, may be deposited, as well as those which may have been already discharged from her, that the papers on board be examined, as well as the journals, crew, and captain, and that it be proposed to make all the investigations, that would, under similar circumstances, be made in Spain, if a like case should occur to the United States, in order to remedy the damages, and prevent their repetition.

I flatter myself that you cannot fail to find my solicitude just, and that the President will accede the more cheerfully to it, as it is

agreeable to the sentiments of humanity and impartiality, which characterize him, and to the desire which he has manifested to me to strengthen the bonds of friendship with my sovereign.

I renew, &c.

(Signed)

LUIS DE ONIS.

*Washington, Feb. 11, 1817.*

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(Translation.)

*The Minister of Spain to the Secretary of State, dated  
February 12, 1817.*

SIR,

After my official letters of the 10th and 11th of this month were written, I received advice from Baltimore, that captain John Chase was now there, and that it was understood that he had left the command of the privateer Potosi, (alias the Spartan, of Baltimore,) and likewise, that there were in that city more than thirty officers and sailors, who had belonged to the said privateer, and who had come there for the purpose of claiming from the said Chase their portion of the prize money from the Spanish ship "Ciencia," of which they had taken possession at sea, in the manner you will see detailed in the declarations of four of the sailors of the said privateer, copies of which are enclosed.

This, without doubt, is a case which merits all your attention, as it is proven, in the most positive manner, that a certain number of American citizens had armed and equipped a vessel in Baltimore, had gone to sea in her, and had committed an act of hostility against Spain, contrary to the laws of nations, and in violation of the 14th and of other articles of the treaty existing between the two nations; thus compromising the dignity of the United States, who cannot but disapprove such conduct, and violating the rights of the king my master.

The consul of his majesty in Baltimore, has, without loss of time, proceeded judicially against the beforementioned John Chase, by soliciting his arrest, and at the same time is taking measures to attach, in the hands of Mr. Didier, merchant, of Baltimore, twenty odd thousand dollars, which it is known he has received from the said prize; but I see at once that all the efforts of the consul will be in vain, unless this government interpose all their authority, by giving the proper orders for vindicating their own dignity, which has been

compromited by the atrocious conduct of these bad citizens. I do not deem it necessary to repeat to you the many observations I have had the honor to make to you upon various occasions on occurrences of this kind: and I therefore limit myself to asking of you to communicate this case to the President, who, I ought to expect, will take such measures as he may think best adapted to the correction of this disorder, and for doing justice to the aggrieved party.

I renew to you my respects, and pray God to preserve your life many years.

(Signed)

LUIS DE ONIS.

*Washington, February 12, 1817.*

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(Translation.)

*Don Luis de Onis to the Secretary of State.*

SIR,

In confirmation of what I had the honor to state in my note to you of the 12th instant, I now enclose a list of the articles which Mr. Henry Didier, a merchant of Baltimore, has landed there, under the usual forms of the custom house, from on board the American schooner "Remittance," captain James Rogers, from Aux Cayes, they being the same which had been plundered from the Spanish ship "Ciencia," by the privateer "Potosi," captain James Chase, by whom they were transhipped on board the said schooner, and consigned to the abovementioned Didier.

In consideration of these proofs, I trust that you will be pleased to obtain from the President the necessary order to effect the delivery or security of this property, for the benefit of its lawful owners, and that you will have the goodness to advise me of the same for my government.

I renew to you my respects, and pray God to preserve you many years.

(Signed)

LUIS DE ONIS.

*Washington, 22d February, 1817.*

(Translation.)

*Don Luis de Onis to the Secretary of State.*

SIR,

The session of Congress being within two days of closing, and the Senate having not given its assent to the bill passed by the House of Representatives, for the purpose of putting a stop to the armaments making in different parts of the Union, in violation of the laws of nations, and of the treaty existing between his catholic majesty and this republic, I have considered it my duty to represent to you the injuries resulting from this delay to Spain, and likewise to all the nations of Europe; to the end that, if the President sees fit, he may be pleased to cause this subject to be taken into serious consideration.

I renew to you my respects, and pray God to preserve you many years.

(Signed)

LUIS DE ONIS.

*Washington, 28th February, 1817.*

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(Translation.)

*Don Luis de Onis to the Acting Secretary of State.*

SIR,

In an official letter, under date of the 11th of last month, which I had the honor to direct to the Secretary of State, I represented to this government, that, contrary to my expectation, I had just received positive information that the marshal at Baltimore had left at liberty, the captain and crew of the pirate "Mongore," and had even permitted her to go to sea to renew her excesses, without having even so much as taken their declarations, which the public vengeance, and the interests of both governments demanded: I dwelt on the great injuries which would follow to my nation, from the impunity and toleration which these highway robbers met with in this country; and requested that the President would give the correspondent directions for preventing this injury.

In my official letter of the 12th of the same month, I took occasion again to call the attention of this government to the same sub-



ject, though in a different case, in consequence of having received advice that captain John Chase, who commanded the privateer "Potosi," (alias the Spartan of Baltimore,) and more than thirty persons belonging to her crew had arrived at Baltimore, of whom four had given very detailed declarations respecting the capture of the Spanish vessel, the "Ciencia," of her halting place, and of the existence in Baltimore, in the possession of Mr. Henry Didier, to the amount of more than \$20 000; and requested that the government would interpose its authority, to give effect to the prosecution which the consul of his majesty had set on foot against the person of Chase; and (to) the legal proceeding under which he has succeeded in attaching in the hands of Mr. Didier, the said interests; and under date of the 22d of same month, I enclosed a list of these effects, which were in the hands of Mr. Didier.

I have not, as yet, had the honor to receive an answer to any of the above mentioned notes; and I have just understood, that the authorities at Baltimore, contemning the evidence of the four witnesses, who had presented themselves, and the entry in the custom house in the name of Didier, of the effects robbed from the Spanish, have permitted the said captain Chase to go very tranquilly to Norfolk, to enjoy the fruits of his depredations; that with universal scandal, and notwithstanding the character of captain Barnes, as a pirate, was established by the decision of the court of the United States, in Boston, which had declared as illegitimate, his prize, the Spanish schooner "Pastora," and ordered that she should be restored to her owners; he has sailed from Baltimore, with his privateer "Mongore," as soon as the ice permitted, and gone down the bay, to go to sea, to repeat his cruelties; without its having been possible for the consul of the king to get the declaration of Barnes, and his people taken, as to what had been the lot of the crews of the Spanish vessels which they had captured; declarations, which, not only by the laws of nations but by the more sacred law of humanity, should have been taken, considering the vehement and well founded suspicions there were, that they had assassinated all the individuals who had had the misfortune to fall into their hands.

In consideration then of the excesses committed against the subjects of the king my master, and of those, which, from the impunity and toleration on the part of the authorities of this country, are in a state to be repeated, with vessels purchased, armed, manned, and equipped, in the ports of these States, contrary to all the laws of nations, to the express stipulations of the treaty which exists between the two countries, and to the laws of humanity, itself, I cannot do less, in discharge of my obligation, than to represent and reclaim in the name of my sovereign, the damages and injuries which have resulted, and may hereafter result to his subjects; and to protest against the authors of all of them. At the same time, I cannot omit to beg you with earnestness, to be pleased to inform me of the measures which this government may have taken for the purpose of having re-

stored to the Spanish owners, the effects of which they have been robbed, and also, to ascertain the fate of the unfortunate crews of the Spanish vessels which have been captured and destroyed by the two pirates above mentioned; as likewise by the other two called the *Orb* and the *Romp*, that were, in like manner, armed in Baltimore.

I hope you will have the goodness to give me the information I ask, that I may bring it to the knowledge of the king my master.

I renew to you my respects, &c.

(Signed)

LUIS DE ONIS.

*Washington, March 14, 1817.*

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(Translation.)

*Don Luis de Onis to the Secretary of State.*

SIR,

I had the honor to receive your note of the 13th instant, in which, by order of the President, you enclose a copy of the act passed by Congress, on the 3d, entitled, "An act more effectually to preserve the neutral relations of the United States," by which the President trusts, that my government will perceive a new proof on the part of the United States, of a desire to cultivate just and friendly dispositions towards Spain.

I cannot but be highly gratified, by all those occasions on which the government of these States, manifest a disposition corresponding with that entertained by the king, my master, to maintain and strengthen the amicable relations subsisting between the two nations; and I therefore hope, that the President will cause the most effectual measures to be taken to enforce an observance of this law by the officers of this government, with greater exactness than has hitherto been paid to the existing laws, and to the express stipulations of the present treaty between the two nations.

I shall embrace the first opportunity to transmit a copy of this act to my court, for the information of my sovereign; and with renewed assurances of my respects, I pray God to preserve you many years!

(Signed)

LUIS DE ONIS.

*Washington, 15th March, 1817.*

(Translation.)

*Don Luis de Onis to the Secretary of State.*

SIR,

I have just been informed, that there have entered at Norfolk, two pirates, under the flag of Buenos Ayres, the principal of which, is called the "Independencia del Sur," armed with sixteen guns and one hundred and fifty men—her captain is the well known pirate called commodore Chaytor. The second is the schooner "Romp," which, to enter into that port, has changed her name to that of "Alta-veda,"—she has a crew of seventy men, and appeared to be commanded by a person called Gliner. Both vessels were built and fitted out at Baltimore, belong to citizens of that place, and others in this republic, and their crews and captains are of the same. Their entrance into Norfolk, has been public to revictual, and return to their cruize against the subjects of the king my master; but their principal object is to place in safety the fruits of their piracies, which must be of great importance, if we attend to the information from Havanna, which states, that they have robbed a single Spanish vessel coming from Vera Cruz, of ninety thousand dollars; and to the fact that on the 21st of the present month, they had deposited \$60,000 in the bank of Norfolk, had landed a number of packages of cochineal, and had declared that they had taken to the amount of two hundred and ninety thousand dollars. I am informed, that the person called commodore Chaytor, was about to set out for Baltimore, probably to settle accounts, and divide his robberies with the persons interested in the outfit. It is a circumstance worthy of remark, that these two pirates saluted the fort at Norfolk, and that it returned the salute upon the same terms as would have been done with a vessel of war of my sovereign, or of any other nation acknowledged by all independent powers.

It would be superfluous to take up much time in representing to you, how sensible my sovereign, and likewise all maritime nations must be, to see that their flags are treated on an equality with pirates, in the territory of this Union. So obvious a reflection cannot be withheld from your knowledge, and that of the President. I therefore do not doubt, that if, as I persuade myself there has been, a mistake in the honors paid to these pirates, you will be pleased to disapprove of the conduct of the commander of the fort, and give suitable orders to prevent its happening in future.

At the same time that I expect the measure from the justice of the President, I claim in the name of the king my master, that all steps be taken for the arrest of these pirates, whether they be at Norfolk, or that they repair, as is probable, to Baltimore, where their principal associates are, that they be proceeded against according to the act of Congress of the 3d instant, and to the stipulations of the treaty between his majesty and this republic; that legal means be taken to ascertain all the captures made by them during their cruize, the

fate of the Spanish crews that have fallen into their hands, and the places of deposite of the property taken from on board them, in order that by attaching the same by the competent tribunals, it may be held for the disposal of the owners who may prove their property.

This request being, moreover, founded in justice, is supported by the friendly sentiments of this government towards his catholic majesty, by the assurances which the President has given to me of his sincere desire to put an end to a piracy, which, although in opposition to the sentiments of the administration, highly compromits the dignity and character of a people distinguished for its rectitude, morality, and its refined virtue. I therefore cannot but confidently hope, that you will enable me to inform my government of the measures which may be taken in this matter.

(Signed)

LUIS DE ONIS.

*Washington, March 26, 1817.*

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(Translation.)

SIR,

The pirate *Orb*, fitted out at Baltimore, under the name of the "Congress," and flag of Buenos Ayres, commanded by Joseph Almeida, a Portuguese, and a citizen of this republic, has had the audacity to return and enter the said port, there to deposite a part of his robberies. The piratical character of this vessel is as fully acknowledged, as it is proved that she was armed and manned with people of this country and of others in the abovementioned port, and that she had made different prizes in the neighborhood of Cadiz and other points, since there now is in the port of New York, the Spanish *Palane*, the "*Leona*," captured by her, whose cargo, consisting of two hundred thousand dollars is concealed, where, it is not known, and in the same port of Baltimore, there are deposited the proceeds of the Spanish Brig "*Sereno*" and her cargo, captured by the same vessel. No evidence can, in my judgment, be offered, which gives greater certainty to facts so notorious. If by chance any thing could be added thereto, it would be the acknowledgment of their atrocities. Nevertheless, I have the mortification to say, that neither this notoriety nor the reclamations of his majesty's consul at that port, have as yet been sufficient to produce those steps which are required by humanity to secure the person of this notorious pirate, to take the declarations of the crew, and to prevent their enjoying their plunder to the prejudice of the lawful owners.

I think it my duty to bring this incident to your knowledge, and I doubt not that the President, when informed thereof by you, will take it into the serious consideration which it merits, and give the most positive orders that a suit be instituted against this pirate, that an attachment be laid on all his property and funds wheresoever they may be placed throughout this republic; and that they be held at the disposal of those owners who may prove their property.

As I propose to despatch a messenger in a few days to my government, and it will be very agreeable to me to give to his majesty, an assurance that the United States are seriously disposed to put an end to the injuries resulting to Spain from the nonobservance of the treaty between the two nations, I will thank you to inform me as speedily as possible of the measures which may be taken in this case, and in that on which I address you in a separate despatch of this date, 26th March, 1817.

(Signed)

LUIS DE ONIS.

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*Department of State,  
March 28th, 1817.*

SIR,

I have had the honor to receive your two notes, dated the 26th of this month, stating that you have been informed, that two armed vessels, which have been committing unauthorized depredations upon the commerce of Spain, have recently arrived at Norfolk, and that a third, liable to the same charge, has arrived at Baltimore, thus bringing themselves within the reach of those laws, against which in the above, and in other ways, it is alleged they have offended.

Conformably to the constant desire of this government to vindicate the authority of its laws, and the faith of its treaties, I have lost no time in writing to the proper officers, both at Norfolk and Baltimore, in order that full inquiry may be made into the allegations contained in your notes, and adequate redress and punishment enforced, should it appear that the laws have been infringed by any of the acts complained of.

I use the present occasion to acknowledge also the receipt of your note of the 14th of this month, which you did me the honor to address to me, communicating information that had reached you, of other and like infractions of our laws within the port of Baltimore; in relation to which, I have to state, that letters were also written to the proper officers in that city, with a view to promote every fit measure of investigation and redress. Should it prove necessary, I will have

the honor to address you more fully at another time upon the subjects embraced in these several notes. In the mean time, I venture to assure myself, that in the readiness with which they have thus far been attended to, you will perceive a spirit of just conciliation on the part of this government, as well as a prompt sensibility to the rights of your sovereign.

I pray you sir, to accept the assurances of my distinguished consideration and respect.

(Signed)

RICHARD RUSH.

*The Chevalier de Onis.*

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(Translation.)

*Don Luis de Onis to the Acting Secretary of State.*

SIR,

By your note of yesterday, I am apprized that the President, on being informed by the notes to which you have replied, of the audacity with which the pirates armed in this country introduce into it the fruits of their robberies, has been pleased to give suitable orders to the authorities at Norfolk and Baltimore, that having ascertained the facts which I have brought to his knowledge, they should duly proceed according to law, against the violators of the laws of this republic. The district attorney for the United States at Baltimore, has replied to the king's consul there, that he has no evidence upon which he can proceed against captain Almeida; but if a witness should offer, who will depose to the facts referred to, he will proceed to order an embargo to be laid on his vessel. I am perfectly aware that good order, the personal security of individuals, and the prevention of any violence being committed upon them, require that suits should be instituted according to the rules of court; but when a crime is notorious to all, and is doubted by none; when the tranquillity and security of the state, the honor of the nation, and the respect that independent powers owe to each other, are interested in putting a stop to crimes so enormous, as those I have had the honor to denounce to you, it appears to me that the magistrates are authorized to collect a summary body of information, to inquire whether the public opinion is doubtful, and if there be ground to institute a suit. The collector of the customs cannot be ignorant that the three vessels which I have named to you, were built and fitted out at Baltimore; that they were

cleared at that custom house as Americans; that their crews were, at their departure, composed of citizens of this Union, as were their captains, and that the effects which they have landed, can only come from Spanish countries. What stronger testimony, if more is wanted, than their own declaration, can be desired to proceed against these pirates?

The ships' papers, the declarations of the crews, the log book, are all testimony which can throw light upon the truth or falshood of the crime alleged, and makes it unnecessary to trouble them, until it be ascertained that there is ground for proceeding judicially against them.

It must have been known to you, sir, that when the rebel *Mina*, armed and equipped at Baltimore, for the purpose of attacking the dominions of the King, his majesty's consul presented two declarations, sworn to by two officers, who had accompanied him, setting forth all the plans and projects of this traitor, and the manner in which he had violated the laws of the republic; that on another occasion the same consul presented the declarations, on oath; of four sailors of the pirate *Potosi*, stating the prizes they had made, the merchants to whom were addressed the effects stolen from the vassals of the king, and that in both cases they were considered insufficient to proceed against these highway robbers, and to afford the vassals of his catholic majesty that protection which they had a right to expect of a friendly power.

At this very moment, I have received advice from his majesty's consul at Norfolk, stating that a quantity of seroons of cochineal, indigo, and Jesuit's bark, brought in by the two privateers, the *Independence of the South*, captain Chaytor, and the *Altavela*, alias *Romp*, captain Grennolds, has been shipped at that port on board the packet which sailed on the 23d instant for New York, in order that by changing place, and appearing to be cleared out by other merchants, the vassals of his majesty may be deprived of their property, and the pirates and merchants who have fitted them out, become the owners of the booty. No one renders more justice to the rectitude of the President than I do, and to the sincere desire that he has to put a stop to practices so contrary to the virtue and good faith which characterize this republic; but it is that very cause which lays me under the necessity of exposing these practices, with an entire confidence that the President will only see in this communication, my anxious desire to prevent any obstacles being thrown in the way of the friendly arrangement now pending between the two powers. The treaty of limits and navigation existing between them, establishes in the most positive manner, that the two nations have agreed to consider as pirates, all vessels fitted out in the two countries respectively, manned and commanded by their repective subjects or citizens, acting in a hostile manner against one or the other of the two contracting parties under a foreign commission; the acts of Congress of the 5th of June, 1794, of the 14th of June, 1797, and the second section of the 30th of April, 1790, prescribe the punishment to be inflicted on these

persons, and the steps to be taken on both sides to restore the property to its lawful owners.

I rely on your justice and friendly sentiments towards my government, for promoting, with the President, such orders as in his wisdom and foresight will seem to him best adapted to prevent the evasion of the laws, and the sacrifice of that portion of his catholic majesty's subjects who have been robbed by these pirates.

I renew, &c.

(Signed)

LUIS DE ONIS.

*Washington, 29th March, 1817.*



(Translation.)

*Don Luis de Onis to the Acting Secretary of State.*

SIR,

Although I have always made it a duty not to intrude on the attention of this government, by remonstrances which are not founded on incontestible facts, or at least, on moral evidence, yet it appeared to me, in the conference which I had with you yesterday, that you were not satisfied with the complaints I lately addressed to you against the pirates, "Potoso, Mongore, Congreso, Independencia del Sur, and Altavelda," I have now the honor to annex a copy of a letter from the owners of the Spanish ship "Nuestra Senora de los Dolores," and of one from the consignee at Havanna, by which you will be informed that the said vessel was captured near to Cadiz by the pirate "Independence del Sur," captain James Chaytor.

I also enclose to you the declaration on oath of Joseph Ojeda, captain of the Spanish schooner Catalina, captured by the pirate Almeida, commanding the Orb, alias the "Congreso." By this declaration you will see the number of Spanish vessels he has plundered, those he has burnt, and those he has sent to other ports. I flatter myself that you will find in these documents, if not all the evidence required by the laws of the United States for the punishment of a man who has committed so many atrocious acts, at least sufficient to justify the detention, for the benefit of the lawful owners, of the property which he is endeavoring to introduce clandestinely into this country, in violation of the treaty of friendship, limits, and navigation now existing between the two powers.



I hope, sir, that you will allow me to use the term "pirates," in speaking of these banditti. My impression is, (and I found it upon the treaty of amity I have just referred to,) that every vessel built or fitted out within the jurisdiction of this republic, manned and commanded by citizens of the Union, which is navigated and commits hostilities under a foreign flag, is, and must be deemed a pirate; that as such, it is liable to confiscation with all the property on board, that it may be afterwards restored to the lawful owners, although no one should present themselves to make the claim in their behalf, as would be done in the case of any known murderer, or of one against whom there existed strong suspicions of having committed a crime against society, and this for the purpose of satisfying the calls of public vengeance. I hope that you will have the goodness to inform me if I am mistaken in this conception, and in case it should be that of the President, that you would be pleased to obtain such measures of him as in his wisdom he may deem most proper, to prevent the vessels abovementioned, together with their captains, again putting to sea, and to afford that protection to his majesty's subjects which they have a right to expect, from the close friendship existing between the two governments, by laying an attachment on the property on board those vessels, that it may be delivered up when its owners are ascertained.

I renew to you, sir, the assurances of my respects, and pray God, &c.

(Signed)

LUIS DE ONIS.

*Washington, 4th April, 1817.*



No. 1.

(Translation.)

*Havana, 17th December, 1816.*

*Don Thomas Stoughton,*

SIR,

The foregoing is a copy of my last of the 4th instant, which I confirm. I am again obliged to trouble you by requesting you would be on the watch, if the ship called the Na. Sa. de los Dolores, alias the "Primera," should put into any port of the United States, which vessel I despatched for Cadiz on the 10th of July, under the com-

mand of captain Nicholas Larrea, with a cargo of sugar consigned to the owner, Don Juan Fasco. de Vergaro, of the same place, who, under date of the 3d of September, informs me of her capture on the 27th of August, near Cape St. Vincent, by the privateer Independencia del Sur, captain James Chaytor, and giving me authority to claim or ransom her, as you will see by a copy of his letter enclosed. I therefore hope you will do me the favor to advise me of whatever may turn up in the affair, that the requisite orders may be promptly given.

(Signed)

FRANCO. DE PAULD DE MAURA.

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No. 2.

(Translation.)

Cadiz, 3d September, 1816.

*Don F. de P. Morena de Maura,*

SIR,

On the 27th of August last, at the distance of 22 leagues from Cape St. Vincent, the ship Na. Sa de los Dolores, alias Primera, captain Nicholas Larrea, which sailed on the 10th of July of the present year, was captured by the insurgent schooner brig of Buenos Ayres, called the Independencia del Sur, commanded by James Chaytor. On being captured captain Larrea endeavored to ransom his vessel and cargo, and the commander of the privateer actually agreed to estimate the sale at 50,000 dollars, including therein, 5,000 for the vessel, the ransom to be paid in Cadiz. When they were on the point of drawing up the necessary writings, the brig Golondrina from Cumana, appeared in sight, which being likewise made prize of, she was afterwards liberated to carry to Cadiz, the crew of the Primera, and on that account the ransom was not carried into effect. As it appears by information that the privateer which captured her was fitted out in North America, and commissioned by the insurgent government of Buenos Ayres, she will be purchased for little or nothing. I understand that she will be ordered to the Cayes of St. Louis, St. Thomas, St. Bartholomew, North America, Jamaica, or

some other English port. It will, therefore, be for my interest and that of your brother, Don Pascal, &c. &c.

(Signed)

JUAN FSCO. DE VERGARA;

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No. 3.

*Baltimore county, state of Maryland, to wit:*

Be it remembered that on the first day of April, 1817, personally appeared before me, Daniel Rogers, notary public for this state, Diego Jose Ojeda, and being first duly sworn according to law, deposes as follows: That he was captain of a Spanish schooner, called the Nueva Catalina, that he was taken in the said schooner on the coast of Cuba, by a privateer called the the Congreso de Buenos Ayres, commanded by Joseph Almeyda; that in the night of the same day, the ninth of February last, his said schooner was taken by the Spanish brig of war, Campedor, and immediately afterwards taken again by the same privateer, when having taken out all the provisions and best part of the sails, fire was put to the said schooner Catalina, and her crew put on board an American schooner with the exception of the captain, the second mate, the cook, and two passengers, which captain Almeyda said he would not liberate until the same had been done with one of his officers and five men who had been taken prisoners there; 'during the deponent's stay on board of Almeyda's privateer, he took the schooner Ardilla from Omsa with a cargo of salsaparilla and two thousand dollars, which sum was taken out and the schooner burnt.

On the 19th of February he captured two brigs, the San Antonio Abad, from Vera Cruz, for the Havana, in ballast, and having some money on board; this vessel was also burnt. The other brig, San Jose, from Havana to Campeche, with a cargo of brandy, wine, and other goods, was completely plundered, and the prisoners of the Ardilla and San Antonio, with the two passengers of the Catalina, were put on board of her, keeping a man of each vessel on board of the privateer; the San Jose was then allowed to proceed to Campeche.

On the 24th he captured the Poz, bound from Sisal to Havana, on board of which vessel a prizemaster and eight sailors, were

sent, as also the mate of the Catalina. She was then despatched for Galveston. Her crew were put on shore, at about eleven leagues from the port of Sisal; and this deponent further states that Almeyda made sail for this place, where the said deponent was not allowed to land, until the 28th of March last, when he was sent on shore, without any of the papers of his vessel; Almeyda having taken possession of them.

In testimony whereof, the said deponent hath hereunto subscribed his name, and I, the said notary, have hereunto set my hand and affixed my notarial seal, the day and year first hereinbefore written.

(Signed) DANIEL ROGERS, *notary public*, [L. s.]

(Signed) DIEGO OJEDA.

The foregoing is a copy of the original, transmitted under this date, to the district attorney for the district of Maryland.

(Signed) PABLO CHACON.

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(Translation.)

*Don Luis de Onis to the Acting Secretary of State.*

SIR,

As nothing can be more flattering to me than to prove to you that all my reclamations bear the stamp of the most scrupulous exactness and truth, I have the honor to enclose the declaration, on oath, of two seamen of the Spanish brig San Antonio de Padua, captured by the pirate Almeyda, by which you will see that this pirate has not confined himself to taking and burning Spanish vessels, but has also detained and robbed an English vessel upon the high seas.

I hope that you will have the goodness to bring the said document to the knowledge of the President, as a corroboration and support to the reclamations which I have addressed to you, in order that the property plundered by that pirate, and by the Potosi, Independencia del Sur, Mongore, and Altaveda, may be secured for the subjects of the king, my master, and that they may not be permitted to return to sea, to continue their depredations.

I renew my respects, &c.

(Signed) LUIS DE ONIS.

*Washington, April 5, 1817.*

*Baltimore county, state of Maryland, to wit:*

Be it remembered that on the fourth day of April, in the year of our Lord one thousand eight hundred and seventeen, personally appeared before me a justice of the peace of said county, Lewis Falcone and Barnard Falcone, Italians, and being first duly sworn according to law, depose as follows:

That they belonged to the crew of the Spanish schooner San Antonio de Padua, he, the said Lewis being gunner thereof, that having sailed from St. Jago de Cuba, bound for Havana, on or about the 28th of January last, they were chased and captured the same day by a Buenos Ayres privateer, called the Congreso, commanded by one Jose Almeyda, who took the deponents on board his vessel depriving them of fifty boxes of segars, four barrels and five bundles of Spanish tobacco, and a bag containing silk handkerchiefs; that during their stay on board Almeyda's vessel, he took seven Spanish prizes, three of which he burnt, and on or about the 15th of March near the port of Havana, he fell in with a British brig, chased her under Spanish colors, and when sufficiently near, fired into her, hoisting at the same moment the Buenos Ayres flag: the brig being armed was defended by discharges of grape shot nearly the whole day, but being boarded in the evening, was compelled to surrender: during the whole transaction the British ensign was at her main peak, and no other flag. Her crew were taken on board the Congreso, and the vessel plundered of several valuable articles of gold and silver. She was given up and allowed to proceed—her mate received a musket shot through the head, of which wound it was almost impossible he could recover. And these deponents further state, that Almeyda after this proceeded to the United States, and arrived at Baltimore on or about the 28th of March last.

(Signed)            **LEWIS FALCONE,**

**BERNARD FALCONE** his X mark.

Sworn to and subscribed before me by Anthony Canno,

(Signed)

**THO. W. GRIFFITH.**

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(Translation.)

*The Chevalier de Onis to the Acting Secretary of State.*

*Washington, 18th April, 1817.*

SIR,

By the information which has been transmitted to me by his majesty's consul at Baltimore, in relation to the legal steps taken by

him for the seizure of the pirate "Congreso," captain Almeyda, and the attachment of her cargo, it appears, that the court of Baltimore county, has declared its incompetency to take cognizance of this cause, on the plea that the Congress had not the power to alter the mode pointed out by the constitution, in which similar causes are heard and decided in the supreme court of the United States, from which decision it follows, that no state judge or justice of the peace, has power to arrest any individual for a violation of the laws of this republic. I will not permit myself any reflection upon the forms of law which may be laid down for cases of this nature, nor upon the powers which are, or are not, within the competency of the legislature; but I cannot the less express to you my surprise, that the states' attorney has not given the direction recommended by the laws, to an affair, which, in addition to the justice due to the subjects of his catholic majesty, so essentially interested the honor of the United States, by the violation of its statutes, its treaties, and its neutrality with foreign nations.

The result of all which is, that the pirate Almeyda is at full liberty—that his vessel, the "Congreso," is released from attachment, and that he is free to land, and place in safety, the fruits of his piracies;—that during several weeks, he has had thirty hands at work upon his vessel, sheathing her with copper, making new sails, and giving her a thorough repair; and that there is an appearance that he will profit by the first favorable wind to put to sea, and continue with greater fury his atrocities and piracies, before the suit can be instituted in the court which is now designated, if effectual measures be not taken to prevent him.

I therefore hope, that you will be pleased to lay the foregoing subject before the President, and, I doubt not, that animated by his desire to preserve the friendship which happily subsists between Spain and this republic, he will adopt those measures, which appear to him most suitable to prevent the evasions employed to obstruct the course of justice, and burden the United States with an indemnification for injuries of such magnitude, occasioned to the subjects of the king, my master, by reason of the nonobservance of the treaty which exists between the two nations.

(Signed)

LUIS DE ONIS.

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(Translation.)

*The Chevalier de Onis to the Acting Secretary of State.*

SIR,

Although I was persuaded that the act of Congress of the 3d of March, relative to the preservation of the neutrality of the United States, in addition to the treaty of friendship, limits, and navigation,

existing between Spain and this republic, and to the act of 1797, which prescribes the mode of pursuing the violators of the laws of this republic, would exempt me from again calling your attention by new reclamations, to the injuries which the subjects of the king my master, incessantly experience from the privateers armed in the ports of this Union, the annexed copies of notes, which his majesty's consul at Norfolk, has addressed to the states' attorney, and to the collector of the customs, and the answer which he received from the latter, will show you, that nothing is sufficient to put a stop to the evil of which I have so often complained to this cabinet.

By these documents, you will see, notwithstanding the proofs presented by Don Antonio Argote Villalobos, that the pirates "Independencia del Sur," and "Atrevida," were both fitted out at Baltimore, that their captains, Chaytor and Graynolds, are American citizens, as well as their crews;—that both the one and the other have received commissions, and cruised under a foreign flag, against the Spanish commerce; that they were then strengthening their armament, and increasing their crew; and finally, that the same collector, who acknowledges they bring no manifest (registro) of the articles they have on board, from any authority or port, known or unknown, thereby evidently proving that they were stolen on the high seas, refused to arrest this property, unquestionably stolen, to hold it at the disposal of the owners, who might prove their claims; and to detain the vessels, which, in manifest violation of the laws of this republic, and above all, of the act of Congress of the 3d of March, are there preparing to return to their cruize.

I shall abstain from fatiguing you further upon a subject to which I have so often claimed your attention, and that of the President. I flatter myself that the transmission of the proceedings, such as they have been transmitted to me, and the elucidation afforded by the annexed copies, will be sufficient to induce the President to acknowledge the urgency of adopting measures, really effectual, at once to put an end to these piracies, otherwise his majesty will not be able to see, in a continuance of these excesses, a confirmation of the assurances which the President has given me of his desire amicably to adjust, by means of a treaty, all the differences pending between the two governments, and to strengthen the friendly relations with his majesty by new arrangements mutually advantageous to both states; nor the pledge which I have already given him, that if the above mentioned act of the 3d of March, did not repair the evils suffered by his subjects until that period, it would at least prevent those by which they were threatened in future.

I renew to you, &c.

(Signed)

LUIS DE ONIS.

Washington, 19th April, 1817.

No. 1.

*Spanish Consul's Office,**Norfolk, 10th April, 1817.**Charles K. Mallory,**Collector of Norfolk and Portsmouth,*

SIR,

I found it my duty, on a former occasion, to make an official application to you, in the case of the armed schooner "Potosi," captain Chase, said to be acting under a commission from the pretended government of Buenos Ayres, (where, by the bye, she had never been,) but which had been fitted out, armed, and equipped, in the port of Baltimore, to cruize against the subjects of Spain, contrary to the law of nations, and in violation of the neutrality of the United States, their laws, and stipulations in the existing treaty between the two nations, concluded on the 27th October, 1795, and in opposition to the intentions of the government, manifested in the President's proclamation of the 1st September, 1815, and since, more fully displayed by the act of Congress passed on the 3d March, ult. entitled "An act more effectually to maintain the neutral relations of the United States."

I do not doubt, sir, but that you participate in the indignation which every honest man feels at the lawless proceedings, the greedy rapacity, and in many instances, horrid cruelties of this set of sea depredators, who, being for the most part, citizens of the United States, are a disgrace to this country; but still, you did not think yourself authorized to interfere, though in your reply, dated the 16th of December, ult. you expressed that you would take care in that, as in other cases, to see that the laws of the United States, and other regulations of the government, are duly observed.

Impelled again by duty, and relying on the assurance (just quoted) in your said letter of the 16th of December, ult., I do myself the honor of addressing you the present letter, to request you to interpose your authority, for the purpose of detaining the armed brig, "Independencia del Sur," alias, the "Mammoth," commanded by Jas. Chaytor, and the schooner "Alteveda," alias, the "Romp," captain Grinolds, both which vessels have been armed and equipped in this country, in violation of the law of nations, the neutrality, laws, explicit stipulations, and professed intentions of the government of the United States, and are commanded, and principally manned, by citizens thereof.

As these violators of all law pretend to shield their conduct under a commission from a government, the existence of which is not acknowledged by this or any other civilized country it becomes necessary for me to call your attention to the 14th article of the treaty existing between Spain and this country, by which you will find that



it is expressly forbidden to the citizens and subjects of either nation respectively, to take any commission from any prince or state with which the other nation shall be at war; and such as will take such a commission are punishable as pirates. Upon the strength of this article, and in vindication of the laws and honor of the United States, I must solicit you to put a stop to the farther proceedings of these freebooters, and to deter them from going on in their criminal course to the great detriment of the commerce of Spain, a nation in amity with this country, and to the annoyance of the peaceable commercial subjects of all other nations. I must further solicit you to stop these vessels, on the ground that they have in this port improved their equipment and considerably augmented their crews, by enlisting several individuals, contrary to the said act of Congress of the 3d of March ulto., which enlistment is the more aggravating, because most of the individuals so enlisted, are known to be citizens of this country. I also solicit you to stop and keep in your possession certain stolen goods, namely, cochineal and indigo, which I am told, are now in the custody of the custom house under your direction, reserving to myself to prove hereafter the true owners of this property. I must add the request to be furnished with a copy of the entry or manifest of the goods or articles of merchandise imported by, and landed at this port from the said cruizers.

In closing this letter I cannot forbear expressing a hope that you will give to this application all the attention which the nature of the case requires, and that you will not delay your answer, from the tenor of which I shall regulate my conduct, so as to acquit myself of that duty to my king and country, imposed upon me as well by my office as by my personal feelings.

With great respect, I remain,

Your obedient humble servant.

(Signed) ANTONIO ARGOTE VILLALOBOS.

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No. 2.

*Spanish Consul's office,*

*Norfolk, 10th April, 1817.*

SIR,

The enclosed is a copy of an official letter which I have addressed this day to the collector of the customs of this port.

As there is no question, but that the government of the United States are bound to punish such of their citizens as in defiance of all law have committed hostilities against a friendly nation, and also to arrest them in their progress, when they are seen within their jurisdiction preparing to continue their nefarious course; and as it is in your province, as district attorney to see, that the laws of the Union are duly enforced, both in the punishment of crimes, and in the prevention of them. I make the same application to you that I have made to the collector, requesting you, in the name of my government and the suffering subjects of Spain, to issue such process as will deter James Chaytor and captain Grinnolds, their officers and crews, mostly American citizens, from going out of this port to renew their depredations on Spanish commerce; at the same time, that I leave to your discretion, to institute any further proceedings that the nature of the offences already committed may admit of, and of which I shall furnish proofs in due time. I must also request you to secure in behalf of the true owners of the stolen property which can be come at, namely, a parcel of cochineal and indigo, landed by these privateersmen at this port, and said to be now in the custody of the custom house.

I hope, sir, that you will see the propriety of my applying to you in the present instance, and that you will do me the favor to answer this letter, apprising me of the course you mean to adopt for my information, and to enable me to give proper intelligence to my minister.

I remain, respectfully,

Sir, your most obedient servant,

(Signed) ANTONIO ARGOTE VILLALOBOS.

*William Wirt, Esquire,*

*District attorney of the United States, Richmond.*

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No. 3.

*Collector's Office, Norfolk, April 11, 1817.*

SIR,

I had the honor to receive your note of yesterday, in relation to the two armed vessels, now lying in this port, under the flag of

the government styling itself "the United Provinces of the river Plate," the one called "Independencia del Sud," and the other, "Atrevida." You require me to detain these vessels upon the grounds, that in violation of the law of nations, the neutrality, laws, explicit stipulations, and professed intentions of the government of the United States, they have been armed and equipped "in this country, and are commanded and principally manned by citizens thereof;"—that under the 14th article of the treaty between Spain and this country, they are pirates, and that in violation of the act of Congress of the 3d March last, "more effectually to preserve the neutral relations of the United States," "they have in this port improved their equipment, and considerably augmented their crew, by enlisting several individuals." In reply to which, I conceive it proper only to remark, that these vessels have not been unnoticed by me, and that in my conduct towards them, I shall endeavor, as I have done, to observe that course which my official duties appear to me to have prescribed. In pursuing which, that I may have the aid of every light to guide me, which facts can afford, and the allegations thus made by you, in an official form, must be presumed to be bottomed on positive facts, which have come to your knowledge, you will have the goodness, I trust, to furnish me, with as little delay as possible, with the evidence of their existence, in your possession.

In respect to the merchandise landed from these vessels, and deposited in the public store, which you request me to retain in my custody, for proofs to be obtained by you as to the owners of it, I have to observe, that the circumstances of the case, as far as they are at present known to me, do not seem to require that I should take upon myself the responsibility. On the contrary, that these goods should be regarded as the property of those who deposited them, subject to be delivered to them, on complying with all the requisites of the laws for the protection of the public revenue.

There was no regular manifest or entry of these articles, or a copy of it should be furnished to you, according to your request, but simply a memorandum of them, and a receipt of the keeper of the public store, from which it appears, that there were ninety-two bales or packages of cochineal, jalap, and varilla, consisting chiefly of the first mentioned article.

I am, respectfully, sir,

Your obedient servant,

(Signed)

CHARLES K. MALLORY.

*Don Antonio Argate Villalobos,*

*His catholic majesty's consul, Norfolk.*

No. 4.

*Spanish Consul's Office,**Norfolk, 12th April, 1817.*

SIR,

I have had the honor to acknowledge the receipt of your letter of yesterday, in answer to mine of the day before, soliciting you to detain the privateers "Independencia del Sud," and "Atrevida," on the grounds that those vessels have been originally armed and equipped in this country, and are now commanded and principally manned by citizens of the United States, and because they have in this port, improved their equipment, and augmented their crews by enlistment; and further, soliciting you to retain in your possession, and not to redeliver to those privateersmen, certain articles of stolen goods now under your custody; in reply to which, you are pleased to observe, that those vessels have not been unnoticed by you, and that you shall endeavor to observe with regard to them, that course, which you think your official duties prescribe to you; requesting me, at the same time, to furnish the evidence to prove the facts that I have set forth, in order that you may have the aid of every light to guide you; and finally, you observe, that from the circumstances of the case, you do not think you ought to take upon yourself to retain possession of the property above mentioned, of which you give a description in general terms.

With regard to the evidence you require, I will not hesitate to say, that as the facts I have stated are matter of public notoriety, known to every body, and I had no reason to suppose that you were ignorant of them, I did not deem it incumbent upon me to add any proof to the simple narration of them, and I was confident, that by going on to point out to you the stipulations and laws which are infringed in consequence of those facts, you would think yourself authorized to interfere in the manner requested.

I will assert, sir, as a known fact, that the brig, now called *Independencia del Sud*, is the same vessel, which was formerly known under the name of the *Mammoth Privateer*, belonging to Baltimore, armed and equipped in that port, from which she sailed under the command of the same Chaytor, who still commands her; that the very same James Chaytor was necessarily then, and cannot have ceased since to be, a citizen of the United States—is settled, and has a family, in Baltimore, whence his wife came down a few days ago in the packet *Walton Gray*, and is now in this town, on a visit to her husband; that he has enlisted men in this port, many of whom are not so obscure, as not to be generally known. I will mention, as an example, Mr. Young, of Portsmouth, who is now acting as first lieutenant on board the said brig. I will assert as a fact, that the *Atrevida* is the very schooner known before under the name of the *Romp*, the same that underwent a trial for piracy before the federal court in this state; that

her present commander, captain Grinnolds, is a native of one of the neighboring towns, and very well known in this place; and finally, that this vessel has been at one of the wharves altering her copper, which I call an improvement in her equipment.

If these public facts, falling within the knowledge of every individual, require more proof than the public notoriety of them, I must request to be informed as to the nature of that proof, and also whether you are not warranted to act upon just grounds of suspicion, without that positive evidence, which is only necessary before a court of justice.

Respecting the property which I have solicited you to stop, as you seem not to think yourself authorized so to do, I must observe to you, that by the law and general practice in this and other countries, property in suspicious hands is frequently stopped; and I will go further and assert, that there is no doubt of the goods in question being stolen goods, or what, by way of softening the expression, are called prize goods, and all such property hitherto brought into this country by this sort of cruizers, has been adjudged, by the federal courts, stolen property, and has been ordered to be restored to the rightful owners. I do, therefore, most solemnly lay claim to this property, in behalf of the lawful owners, who, I am confident, will, at no distant period, come forward themselves to demand it; and I hereby reserve to them their rights unimpaired, to sue and recover from whomsoever they may be entitled to claim under the law of nations, and in conformity to the 6th and 9th articles of the treaty between Spain and this country, concluded on the 27th of October, 1795, and under any other law that may make in their favor.

I will now conclude by expressing a hope, that upon a thorough view of the subject, you will consider it consistent with the duties of your office, to accede to my solicitation for the relief of the injured subjects of Spain, and to prevent a number of bad citizens of this country, from committing further depredations on their commerce.

I remain, &c.

(Signed) ANTONIO ARGOTE VILLALOBOS.

*Charles K. Mallory, Esq.*

No. 5.

Collector's Office,

Norfolk, April 14, 1817.

SIR,

I have had the honor to receive your letter of the 12th instant, and have bestowed upon it all the attention, which the limited time allowed me would admit of.

From the view I have taken of the facts, as now stated by you, which it is to be presumed are to be regarded as specifications under the more general charges set forth in you letter of the 10th instant, I must really confess, I do not at present see grounds sufficient to justify the steps you require me to take against the armed vessels now in this port, and the merchandise which has been permitted to be landed from them and deposited in the public store.

You assert as known facts, that the brig now called the "Independencia del Sur," is the same vessel that was formerly known under the name of the Mammoth privateer, belonging to Baltimore, armed and equipped in that port, from which she sailed under the command of the same James Chaytor who still commands her. That this very same James Chaytor was necessarily then, and cannot have ceased since, to be a citizen of the United States; is settled and has a family in Baltimore, whence his wife came down a few days ago in the packet, Walter Gray, and is now in this town on a visit to her husband. That he has enlisted men in this port, many of whom are not so obscure as not to be generally known, and you mention as an instance, Mr. Young of Portsmouth, who you allege is now acting as first lieutenant on board the brig. You further assert as a fact, "that the Atrevida is the very same schooner which was known under the name of the Romp, the same that underwent a trial for piracy before the federal court in this state; that her commander, captain Grinnolds, is a native of one of the neighboring towns, and is very well known in this place." And finally, that this vessel has been at one of the wharves altering her copper, which you call an improvement in her equipment.

Now, sir, supposing these facts to be what you affirm they are, matter of too great public notoriety to require any thing like demonstration, do they prove so clearly that the brig now called Independencia del Sud, was originally fitted out in this country to aid the united provinces of the river Plate in their struggle for independence? that James Claytor, a citizen of the United States, assumed the command of her with that intention, under a commission from that government in the port of Baltimore, and that he *commenced his cruize* against the vessels of the subjects of H. C. M. with whom the

United States are in amity, from that port? On the contrary, do they not with equal or greater certainty tend to show that this brig which you acknowledge was formerly the Mammoth privateer, belonging to Baltimore, was fitted out during the late war between this country and Great Britain, to cruize against the vessels of the subjects of his Britannic majesty. That she was then under the command of, and probably owned in whole or in part by the said James Chaytor; that on the termination of that war the owners of the said vessel, having a right to dispose of her wheresoever and to whomsoever they thought fit, may have sent her under the command of the said James Chaytor from Baltimore to Buenos Ayres, where she may have been purchased by the government of that place and put upon their naval establishment, and that the same James Chaytor might *then* and *there* have accepted the commission, appointing him to the command of her? I wish not to be understood as contending that this was the *case*, but that it is an inference which may be fairly deduced from the facts as specified by you. The log book and other documents which I have in my possession, seem, moreover, to corroborate this view of the subject. It appears from them that she is a public armed vessel, not a privateer, and *commenced her cruize* from Buenos Ayres under the orders of that government, be it whatever you may please to term it, in May, 1816. Whether the said James Chaytor had the right, under such circumstances to accept the commission or not, or whether, when he sailed from Baltimore, being then a citizen of the United States, he cannot have since ceased to be one, appears to me plainly and simply the question: has a citizen of the United States the right to expatriate himself and enter the service of a foreign power, not at war with his native country? A question which it is not my province to discuss, but about which, I apprehend, there can be but little doubt in this country, whatever may be the antiquated notions prevailing upon the subject in the old governments of Europe. His having a wife in Baltimore, and her coming to see him here, does not appear to me to affect the case at all, inasmuch as nothing is more common than for foreigners to have wives here, natives of the country; an illustrious instance of which might be given.

With respect to the facts assumed by you of the enlistment of men in this port, of which you mention Mr. Young as an evidence, suffice it to say, that from intimations I had received anterior to the date of your letter, I had determined to make the proper inquiries, and to be satisfied upon this point, before those vessels are permitted to sail, and shall be governed by the result; although it does not appear altogether perfectly certain, that such an augmentation of their force is interdicted by the act of Congress, of the 3d of March last, which being a law highly penal in its nature, will admit of no latitude of construction. Permit me to observe, "en passant," that this Mr. Young is by birth an Englishman, served several years in the British navy, several in ours, and, I suppose, has now an equal right, provided it be

not done in a manner to violate the laws of the United States, to enter into the service of the government, calling itself the "United Provinces of the River Plate," or any other government that will receive him.

With respect also to the vessel, called the *Altevida*, asserted by you to be the very schooner, formerly known by the name of the *Romp*, and tried for piracy, I proceed to remark, that this vessel furnishes a strong argument against you; for after a full investigation of all the charges against her, supported, I believe, as they were by some of *her own crew*, she was acquitted, as well as the commander of her, Squire Fish, who had previously been an officer in the navy of the United States. The same remark will apply with equal force to her present commander, captain Grinnolds.

Upon the subject of the fact lastly stated by you, of the improvement in the equipment of this vessel at one of our wharves, I have to observe, that on the arrival here of these vessels, I had them examined, and an inventory of their armament, equipment, &c. taken, and before their departure, I shall cause a re-survey to be made, with a view to ascertain, whether they have undergone, in any respect, any alterations, prohibited by the laws of the United States. I cannot agree with you, however, that a mere alteration of her copper, rendered necessary, perhaps, by some damages, which, I understand, were sustained in the bottom of the vessel, can be considered as an improvement "in her equipment."

As for the merchandise which you "most solemnly lay claim to," in behalf of those whom you term the lawful owners, which you assert "there is no doubt of being stolen, or what, by way of softening the expression, are called prize goods," I can only say, that I neither officially nor individually have any claim to it whatsoever. It is only deposited in the public store for safe keeping to guard against injury, as in other cases, which might result to the revenue of the United States, and that I see no reason from any thing you have advanced, to change the opinion expressed in my last upon the subject. I know of no decisions, such as you speak of, in the federal courts, adjudging prize goods to be "stolen property, and ordering it to be restored to the rightful owners." If there be any such decisions, they only go to show, that it is by *such authority only*, and not by any that *I possess*, that the articles in question can be detained or restored.

Having thus, sir, gone through the different topics presented by you for my consideration, I shall conclude by assuring you, it did not require any thing you have pointed out to me, to remind me of any duty, which the circumstances of this case have rendered or may render it incumbent on me to perform.

I am, very respectfully,

Your obedient servant,

(Signed)

CHARLES K. MALLORY.

*Don Antonio Argote Villalobos,*

*His Catholic Majesty's Consul.*



No. 6.

*Spanish Consul's Office,**Norfolk, April, 15, 1817.*

SIR,

I have received the letter, which, in answer to mine of the 12th instant, you did me the honor to address to me yesterday.

Without denying any of the facts, on the strength of which I requested your interposition to prevent two armed vessels, now in this port, commanded and principally manned by citizens of the United States, from sallying forth to renew their depredations upon the commerce of Spain, you state that you do not see sufficient grounds for stopping those vessels, or the merchandise landed from them, and now in deposite in the public storehouse in this place.

I do not mean to enter, on the present occasion, into a minute discussion of the several reasons you assign for the line of conduct, which you think proper to pursue in this case, because, I think it sufficient for me to transmit copies of my correspondence with you to my government, through the channel of the minister plenipotentiary of his catholic majesty, in this country. Still, you will permit me to advert to that part of your argument, purporting that it is not so clearly proved, that Chaytor's views, on leaving Baltimore with the armed vessel under his command, was to cruise against the subjects of Spain under a commission from the pretended government of the River Plate; upon which I will remark, that it is no longer necessary to form conjectures about the probable intentions of men, when facts and overt acts have already fully developed their evil purposes. Thus, whether James Chaytor, in going out of Baltimore with the armed vessels still under his command, had hostile views against the subjects of Spain, a nation in amity with this country, is sufficiently solved by the hostilities which he has already committed, and still intends to commit, in the *same vessel*, against the said subjects.

I must also be allowed to notice that part of your argument, "that whatever may be the antiquated notions prevailing upon the subject, in the old governments of Europe, there is little doubt in this country about the question, whether a citizen of the United States has a right to expatriate himself, and enter the service of a foreign power not at war with his native country." In this you certainly appear to me to have set up a mere speculative opinion in opposition to a positive law, namely, the stipulations in the 14th article of the treaty with Spain, by which the United States have solemnly pledged themselves not to permit their citizens to accept commissions from any prince or state, at war with Spain, for the purpose of cruising against her subjects, and to punish as pirates such of their said citizens as will act contrary to that stipulation.

With regard to the schooner *Atrevida*, formerly the *Romp*, which vessel you say "furnishes a strong argument against me," because, although tried for piracy, she was not actually condemned; I cannot avoid remarking, that since the time when she escaped merited condemnation, and her commander and crew condign punishment, she has been out cruising with the armament and commission she took out from this country, (it is pretty well ascertained, that she has never been at Buenos Ayres) and that in every respect she is evidently a pirate, under the true meaning and intent of the said 14th article of the treaty with Spain, and that her said commander and crew are actually engaged in piratical pursuits, in which course it behoves the constituted authorities of this country to stop them, when within their jurisdiction, and completely in their power.

Nor can I forbear to observe, before I dismiss the subject, that the self-styled government of the United Provinces of the River Plate, will gain very little "in their struggle for independence," by commissioning such a gang of greedy freebooters, the scum of this and other countries, who caring little for the fate of that deluded people, excite, by their voracious appetite for plunder, the indignation, not only of the people of Spain, but of the honest and good of all other nations.

I will now conclude, sir, by repeating my solicitations and assertions contained in my letters of the 10th and 12th instant, and by solemnly protesting in the name of my sovereign, against permitting a number of citizens, now within their jurisdiction, and under their control, to go out to cruise against the commerce of Spain, and to renew their hostilities against her subjects; and I do also protest against delivering back to them certain articles of merchandise, described by you in general terms in your letter of the 11th instant; which articles of merchandise are obviously taken from Spanish subjects, contrary to law, and especially contrary to the 14th article of said treaty with Spain, and which, from the tenor of the 6th and 9th articles of the same treaty, ought to be retained in behalf of the lawful owners.

I am, very respectfully,

Your obedient servant,

(Signed) **ANTONIO ARGOTE VILLALOBOS.**

*Charles K. Mallory, Esq.*

*Collector of Norfolk and Portsmouth.*

No 7.

Collector's Office, Norfolk,  
April 15th, 1817.

SIR,

I have been honored with your letter of to-day, in answer to mine of yesterday, and am perfectly pleased that our correspondence has issued in a determination on your part, to transmit copies of it to your government, through its minister in this country.

I have nothing further to add on my part; but assurances of the respect with which

I am, Sir,

Your obdt. servant,

(Signed)

CHARLES K. MALLORY.

Don Antonio Argote Villalobos,  
H. C. M. Consul, Norfolk.

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*Mr. Rush to the Chevalier de Onis, dated*

*Department of State,*

*April 22d, 1817.*

SIR,

By direction of the President, I have the honor to ask, whether you have received instructions from your government to conclude a treaty for the adjustment of all differences existing between the two nations, according to the expectation stated in your note to this Department, of the 21st of February. If you have, I shall be happy to meet you for that purpose. If you have not, it is deemed improper to entertain discussions of the kind, invited by your late notes. This government, well acquainted with, and faithful to its obligations, and respectful to the opinion of an impartial world, will continue to pursue a course in relation to the civil war between Spain and the Spanish provinces in America, imposed by the existing laws, and prescribed by a just regard to the rights and honor of the United States.

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

(Signed)

RICHARD RUSH.

(Translation.)

*Don Luis de Onis to the Acting Secretary of State, dated  
Washington, 23d April, 1817.*

SIR,

I have received your letter of yesterday's date, in which you are pleased to inform me, by order of the President, that if I have received the instructions which I expected, to conclude a treaty for the arrangement of all the differences pending between the two nations, you are authorized to enter into that negotiation with me; but if not, you consider it improper to entertain discussions on the subjects treated of in my last notes.

In reply to these points, I have to inform you, with respect to the first, that my conjectures being confirmed, that my instructions have been intercepted by the pirates which infest the seas, whereby their arrival is so much delayed, I have despatched my secretary, Don Luis Noeli, in order that by informing his majesty of this unexpected event, he may cause them to be renewed to me. As to what relates to the second point, I refer to what I stated to you in my letter of the 21st of February, that I would entirely conform to the wishes of the President, to wait the discussion of those points until the arrival of the instructions.

In the same note you have been pleased to add, in reply to the different notes which I have addressed to you on the subject of the armament of privateers in this country, for the purpose of cruising against the subjects of the king my master, that this government, faithful to its obligations, and respectful to the opinion of the impartial world, will continue to pursue a course in relation to the civil war between Spain and the Spanish provinces in America, imposed by the existing laws, and prescribed by a just regard to the rights and honor of the United States.

As all my notes have been directed to this single object, and as I have, in conformity to your intimations, given correspondent orders to his majesty's consuls, to require of the tribunals the execution of those same laws, there is nothing left for me to do, but to transmit to his majesty this new assurance of the President, and to continue on my part to inform this government of every thing which may contribute to maintain unalterable, the relations of friendship which exist between the two nations, until the arrival of the instructions which I have requested, and further to strengthen them by a treaty which may put an end to all pending discussions.

I have the honor to confirm to you, the assurances of my constant respect, and I pray God to preserve you many years.

(Signed)

LUIS DE ONIS.

(Translation.)

*Don Luis de Onis to the Secretary of State.*

SIR,

The viceroy of New Spain informs me, in several despatches which I have lately received, of the frequent cases which have occurred of American vessels, both merchantmen and armed ships, which, in running along the coasts of those parts of the dominions of his catholic majesty, enter their bays, roads, and harbors, sometimes for the purpose of exploring the country and examining the state of things there; and at others, for that of assisting the rebels with provisions, arms, and warlike stores, and of landing adventurers and other dangerous persons, whose object is to join the insurgents. The viceroy states, that the American colonel Pery, had joined the traitor Mina, with five hundred men; and Savary, the commandant of the mulattoes, with another body, having gone from New Orleans to incorporate their force with that of Mina and Aury, at Galveston, a place within the Spanish dominions;—that American vessels are continually sailing from New Orleans with supplies of arms, ammunition, and provisions, for those banditti;—that the American schooner “Saeta,” from New Orleans, entered the harbor of Tampico, under the pretence of stress of weather, but without any manner of doubt, for the purpose of examining the country; and that the privateer or pirate “Jupiter,” had captured two Spanish vessels off the bar of the Mississippi, very near to several American vessels, &c. The viceroy concludes by saying, that he cannot possibly think, that so many acts of hostility and violation of the laws of nations, and of the existing treaty, can be permitted or tolerated by the government of the United States; and that being desirous to contribute on his part, to the maintenance of the amicable relations subsisting between this government and that of his catholic majesty, he had treated the American vessels and citizens, even in the cases of hostility and violation referred to, with unexampled kindness; but that now he left it to my zeal to endeavor to obtain of this government, effectual remedies against these excesses; that in the mean time, he had given orders to the governors, commandants, and other officers, at the most suitable places within his viceroyalty, neither to admit nor tolerate any American vessel, or of any any other foreign nation, without the requisite passport and license, and that he would exercise the rigor of the laws against those, who should disturb the good order and tranquillity of the king’s dominions.

In consequence, therefore, of this request of the viceroy, I add this reclamation to those which I have already had the honor to address to the President, through the medium of the department committed to you, on similar cases, and in the name of the king my master; and I trust, that on your laying the whole before his excellency,

he will cause the most effectual measures to be adopted, to prevent the continuation of these excesses, and to enforce the due observance of the general principles of the laws of nations, and of the treaty which governs between Spain and the United States.

I renew to you, sir, my respects, and pray God to preserve you many years!

(Signed)

LUIS DE ONIS.

*Philadelphia, 2d September, 1817.*

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(Translation.)

*Don Luis de Onis to the Secretary of State.*

SIR,

A complaint having been laid before his catholic majesty's government, by a part of the crew of the Spanish polacre "Santa Maria," captured on her passage from Havana to Cadiz, by the pirate called the "Patriota Mexicano," commanded by José Guillermo Estefanos, manned with citizens of these States, and covered by their flag, under which he chased and brought to the said polacre, until having ascertained her capture, he hoisted the insurgent flag. I have received the commands of the king, my master, to request of the President through your medium, the most decisive measures for putting an end to the abuses practised in the ports of this Union, by arming privateers to cruize against the Spanish trade, thus prostituting the flag of the United States by these predatory acts, and trampling under foot with unparalleled audacity, national rights, and the existing treaty between Spain and these States.

I therefore, now renew those urgent reclamations, which, on former occasions, I have submitted to the President, through your department, on this important point, and I trust, that the numerous instances of these abuses and horrible depredations, will induce his excellency to adopt energetic measures to restrain these excesses, which so deeply compromit the neutrality of the United States in the eyes of all nations, and are wholly repugnant to the friendship and good understanding happily subsisting between them and his catholic majesty.

I renew to you, sir, the assurance of my respects, and pray God to preserve you many years!

(Signed)

LUIS DE ONIS.

*Philadelphia, Sept. 19, 1817.*

(Translation.)

*The Chevalier de Onis to the Secretary of State.**Philadelphia, November 2d, 1817.*

SIR,

His majesty's consul at New York, has transmitted to me a copy of his correspondence with the United States' attorney for that district, whereby he requests, that in conformity with the act of Congress of the 3d March last, he would oblige a certain armed brigantine to give security, or cause her to be seized, the said vessel having arrived at that port from Norfolk, under the flag of Venezuela, and recruited men to increase her crew, in order to proceed afterwards to Amelia Island, there to join the adventurer M'Gregor, and co-operate in his nefarious plans against the possessions of my sovereign, and against the Spanish trade.

I have the honor to enclose a copy of the said correspondence, on the contents of which I think it entirely superfluous to make any comment; leaving it to you, sir, to decide, whether the solicitude of H. C. M. consul at New York, has been in conformity with the laws and the abovementioned act of Congress, and whether the attorney for that district, will rightfully have conformed thereto, by his strict observance of them, in obliging the owner, or captain of the said armed brigantine to give the requisite security, that he shall commit no hostilities against the subjects of his catholic majesty, and in preventing him from proceeding freely to sea, to commit new depredations.

It is very disagreeable to me to have to repeat to you, sir, what unfortunately I have been several times under the necessity of submitting to the President, through the medium of your predecessors; namely, that the act of Congress of the 3d of March, 1817, has in no wise lessened the abuses by which the laws are evaded, and render entirely illusory the laudable purposes for which they were enacted. From the greater part of the ports of these states there frequently sail a considerable number of vessels, with the premeditated intention of attacking the Spanish commerce, which carry their armament concealed in the hold. It rarely happens, that they can be arrested, inasmuch as the collectors of the customs say that they have not at their disposition the naval force necessary to effect it; on the other hand, armed vessels under the flag of the insurgents, enter into the ports of the Union, and not only supply themselves with all necessaries, but also considerably increase the means they already have, of destroying the trade of Spain, as has recently been the case at New York, whereby the (so-called) privateers of his majesty's revolted provinces, which are in reality nothing more than pirates, manned by the scum of all countries, enjoy greater privileges than the vessels of independent powers.

I request you, sir, to lay particularly before the President, the case which now obliges me to trouble you, in order that his excellency, being made fully acquainted therewith, he may be pleased to take such measures as are within his reach, to cause the provisions of the laws of this republic to be carefully fulfilled, to preserve the observance of the neutrality with other powers, and prevent the infraction of the treaty existing between the two nations; and thus avoid not only the serious evils that the said pirates cause to the subjects of his catholic majesty, but the increase of the difficulties which the two governments are endeavoring to overcome, for the purpose of establishing their relations upon a more friendly and permanent footing.

I flatter myself that you will honor me with your answer, and reiterating my respects, &c. &c. &c.

(Signed)

LUIS DE ONIS.

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(Copy.)

No. 1.

Enclosed in Don Luis de Onis' letter, of 2d November, 1817.

*Consulate of Spain,*

*New York, September, 16, 1817.*

*J. Fisk, Esq. District Attorney General of the United States,*  
SIR,

Some days ago there arrived in the port of New York an armed brig proceeding from Norfolk, which, I have been very credibly informed, is a vessel pretending to have a commissin from Venezuela, but whose object, in coming into this port, was to procure an additional supply of men, wherewith to commit hostilities against the subjects and possessions of the king of Spain. A few days ago I presented to the collector of the port of New York, an affidavit of a man named John Reilly, stating that he had been requested to enlist on board of a vessels, which was represented to him to be the privateer schooner Lively, bound to Amelia Island, to join general M'Gregor to invade the territories of his catholic majesty.

I am now informed, that the brig abovementioned is the vessel alluded to, Reilly having either been mistaken in the name, or designedly deceived by the agents of the privateer. I now enclose the affidavit of John Finegan, by which you will perceive, that the offi-



cers of the above brig (whose name is the *Americano Libre*, commanded by captain Barnard) are enlisting, and have enlisted, men in this port to proceed against the Spanish possessions. I have caused application to be made to the collector, who doubts the extent of his authority in interfering with this vessel. Now, as there must be provisions in the laws and treaties of the United States, vesting an authority in some of its officers to prevent the equipment of vessels, and the enlistment of men, in the United States, to proceed against a foreign nation, at peace with the United States, I make this application to you, most urgently requesting you to take whatever measures may be necessary immediately, in order to prevent the departure of the above vessel, at least until she shall give bonds, that she will not commit hostilities against Spanish subjects. The vessel, it is said, will sail to-morrow morning.

Indeed, if an inquiry were instituted, I am induced to believe, that the above brig would be found to be a pirate.

I have the honor to be, sir,

Your obedient servant,

(Signed)

THOMAS STOUGHTON.

*Luis de Onis.*

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(Copy.)

No. 2.

Enclosed in Don Luis de Onis' letter, of 2d November, 1817.

*State of New York, ss.*

John Finegan, at present in the city of New York, being duly sworn, saith, that he was requested by a man, who is represented to be the commissary of the vessel next mentioned, to go out in the patriot brig, now lying at the quarantine ground; that the destination of the said vessel is to fight against the Spaniards; that the deponent was told, that on his arrival in the Spanish possessions, he was to join the land service of the patriots; that deponent knows of five pereons, who have been engaged in like manner, who are about to proceed on board said brig; that deponent was told, that as soon as he gets on board, he will receive his advance; that officers are at present employed in the city of New York, in looking out for men, and endeavoring to enlist them, to proceed in the said vessel.

(Signed)

JOHN FINEGAN, his mark x.

Sworn this 16th day of September, 1817, before me,

(Signed)

SAM. B. ROMAINE.

THOMAS STOUGHTON.

Es copie, *Luis de Onis.*

No. 3.

Enclosed in Don Luis de Onis' letter, of 2d November, 1817.

*Consulate of Spain,  
New York, September 17, 1817.*

*J. Fisk, Esq. District Attorney General of the United States,*

SIR,

I enclose the deposition of John Reilly, relating to the privateer brig, about which I yesterday had the honor to address you. You will perceive by the affidavit, that officers belonging to that brig, are openly employed in this city, in recruiting and enlisting men to join with general M'Gregor, and invade the possession of the king of Spain.

I need not remind you, that by the existing laws of the United States, these enlistments are unlawful, and that not only the vessel, on board of which they are to embark, is liable to seizure and forfeiture, but that the captain and the officers thereof, who are engaged in this business, are liable to a heavy fine and imprisonment. As these are flagrant violations of the laws of the United States, and calculated to produce serious injury to the property and to the possessions of his majesty's subjects, I flatter myself, that you will take, without delay, such steps, as may be necessary to put a stop to these proceedings.

I have the honor to be, sir,

Your obedient servant,

(Signed)

THOMAS STOUGHTON.

Copy,

*Luis de Onis.*

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No. 4.

Enclosed in Don Luis de Onis's letter of the 2d September, 1817.

*State of New York, ss.*

*City of New York, ss.*

John Riley, at present in the city of New York, mariner, being duly sworn, saith, that some days ago, deponent was requested to embark on board of a vessel which was said to be lying at the Nar-

rows, in the bay of New York, for the purpose of going to join general M'Gregor, and to fight against the Spaniards; that after he arrived at Amelia Island, he might either join the land service or the naval service; that deponent would be paid as soon as he got on board; that several persons were engaged in looking out for recruits to proceed upon the same service, and many men were spoken to for the purpose. Deponent was then informed, that the vessel was the privateer schooner "Lively," but has since learned that it was a mistake, and that the vessel in question is the patriot brig "American Libre," captain Barnard, which is lying at quarantine ground, and is armed with several large guns, and many men; that several persons who are officers, captains, lieutenants, and so forth, are at present employed in recruiting men, to join that service, and proceed in the said brig to Amelia; that many hands have already been bespoken, and are now waiting for money which has been promised to them; that the offers made to them are to give them eight dollars a month, and clothing, together with ten or twelve dollars advance. Deponent supposes that the officers above mentioned, were in treaty with about twenty persons, who were to go on board as soon as their advance was paid to them, and which the said officers told them would be during the course of the day; among the officers there is one who is called a general. That the above men were told in deponent's presence, by the officers who were enlisting them, that they were principally wanted to join the land service against the royalists. And further the deponent saith not.

**JOHN REILLEY.**

Sworn this 19th day of September, 1817, before me,

**FRANCIS R. TILLON,**  
*Notary Public*

Es copia

**THOMAS STOUGHTON.**

Es copia

**LUIS DE ONIS.**

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No. 5.

Enclosed in Don Luis de Onis's letter of 2d November, 1817.

*New York, 17th September, 1817.*

*Thomas Stoughton, Esq.*

SIR,

I have duly received your notes of yesterday evening, and of this day, and have referred to the statutes providing for the punishment of the offences stated. It is not a case, from the evidence men-

tioned, that would justify the collector in detaining the vessel; the aggression is to be punished in the ordinary mode of prosecuting those who are guilty of misdemeanors. Oath is to be made of the facts, by the complainant, who enters into a recognizance to appear and prosecute the offenders before any process can issue. This oath being made, and recognizance taken, the judge of the circuit court will issue a warrant to apprehend the accused, and bring them before him, to be further dealt with according to law. When apprehended, it is the province of the attorney of the United States, to conduct the prosecution to judgment. I have no authority to administer an oath, or to issue a warrant, nor have I the power to issue any process to arrest and detain the vessel in question, unless by the direction of an executive officer of the United States. By the reference you have furnished, the parties complained of, are to be prosecuted either under the 4th section of the act of Congress passed on the 3d March, 1817, or under the 2d section of the act passed 5th June, 1794. By adverting to these statutes, it will be seen, that the vessel is not liable to seizure for the act of any person enlisting himself to go on board, or for hiring or retaining another person to enlist; the punishment is personal to the offenders, and those who disclose the fact, on oath, within thirty days after enlisting, are protected from prosecution. The offenders are to be arrested and prosecuted in the manner I have stated. I beg you to be assured, sir, that it is not from a disposition either to shrink from the performance of my duty, or to decline interfering to defeat any illegal enterprize against the subjects or possessions of a power, with whom the United States are at peace, that I have stated to you the embarrassments I must encounter, in attempting a compliance with your request upon any information with which I am furnished. If it is in your power to procure the names of the parties, and the evidence upon which a prosecution for a misdemeanor can be founded, I will readily co-operate with the proper authorities in having every offender arrested and brought to justice. It is impracticable for me, or any other officer of the United States, to take any legal measures against aggressors, upon the indefinite statement of certain persons being concerned in an illegal transaction. Since the receipt of your notes, I have had an interview with the collector, and we are unable to discover any other legal course of proceeding in this case, than that adopted in the ordinary cases of misdemeanors.

I have the honor to be,

Very respectfully, sir,

Your most obedient servant,

(Signed)

JONATHAN FISK.

Es copia.

THOS. STOUGHTON.

Copy.

LUIS DE ONIS.

No. 6.

Enclosed in Don Luis de Onis' letter of 2d November, 1817.

*Consulate of Spain,*

*New York, Sep. 19th, 1817.*

*J. Fisk, Esquire,*

*District Attorney General of the United States,*

**SIR,**

I have the honor to acknowledge having received yesterday, your letter dated the 17th instant, in reply to mine of the 16th and 17th, wherein you mention that the case whereof I informed you in those communications, was not one which would justify the collector in detaining the vessel; that the aggression is to be punished in the ordinary mode of prosecuting those who are guilty of misdemeanors; that oath is to be made of the facts by the complainant who enters into a recognizance to appear and prosecute the offenders before any process can issue; that this oath being made and recognizance taken, the judge of the circuit court will issue a warrant to apprehend the accused and bring them before him to be further dealt with according to law, and that when apprehended, it is the province of the attorney of the United States, to conduct the prosecution to judgment; that you have no authority to administer an oath or to issue a warrant, nor have you the power to issue any process to arrest and detain the vessel in question, unless by the direction of an executive officer of the United States.

In reply permit me to request that you will take this subject again into your serious reflection: I do not urge it for the present occasion, because, even though you should upon consideration adopt a different opinion from that which you have communicated to me, it is now too late since the vessel in question sailed from this port this morning. But, sir, can it be possible that the doctrine can be correct which you lay down in your letter, and which forms your reason for declining to proceed against the persons who were enlisting men in this city, with the open and avowed design of taking them in a privateer under the Venezuela flag to join with M<sup>r</sup>Gregor, and commit hostilities against the Spanish possession? I furnished you with the affidavits of two persons stating the fact, and you will excuse me in saying that I cannot think the laws of the United States rendered it incumbent upon me to present myself before a judge of the circuit

court, and enter into bonds to appear and prosecute the offenders. On the contrary, sir, the 35th section of the judiciary act imposes upon the attorney of the United States for each district, the duty of prosecuting all delinquents for crimes and offences cognizable under the authority of the United States; I conceive, therefore, that as soon as the attorney of the United States receives information of the infraction of the laws, it becomes his duty to take measures as may be necessary to bring the offenders to justice; he is the person who must take the witnesses before a judge or magistrate; he must become the informer, he must prosecute, that is, he must take, or cause to be taken, the steps which are necessary to arrest the offenders and bring them to punishment. I am the more confirmed in this belief because the 33d section of the judiciary act directs that offenders may be imprisoned by a judge or magistrate, at the expense of the United States, and leaves it discretionary of the witnesses to appear and testify. That act does not require that the informer should enter into bonds to appear and prosecute. The offence of which I have complained is of a most serious nature. The United States should not afford means to one nation at peace with them, to annoy and invade another nation also at peace with them. And it becomes the duty of all the officers of the United States, as they value the reputation and the interest of their country, to discharge with alacrity and zeal those duties assigned to them, which can preserve the neutrality of their country, and prevent its becoming the centre of reunion for the enemies of Spain, and to prevent their own citizens joining in measures of hostility and aggression. It is a matter of notoriety that the insurgent governments of South America all have their agents in this country, that swarms of privateers are fitted out, armed, and equipped for war, in the United States, and all the injuries and desolation committed by them upon the Spanish commerce, emanate from the facilities which they find in the United States, to prepare for themselves these outrages. And, sir, Congress having passed laws rendering these acts illegal, I cannot admit that individuals must undertake the task of informing against and prosecuting the offenders. These offences are against the dignity of the country, they affect the community at large; I cannot, therefore, bring myself to believe that it is the province of individuals to bind themselves to prosecute offenders, any more than I can think that it is the duty of an individual who gives information that a murder has been committed, to enter into bonds to prosecute the murderer. No, sir, the laws must have confided this odious but necessary task to its public officers; they must see that offenders are brought to punishment; and, sir, I do further consider that this duty has by law been devolved upon you. Regretting, therefore, that this expedition has been permitted to proceed unmolested, notwithstanding the information which I communicated to you, you will excuse me if, on all future occasions of a similar nature, I should renew my applica-

tion to you to prevent a new aggression. I beg you to be assured of the perfect consideration and respect with which

I have the honor to remain, Sir,

Your obedient servant.

(Signed)

THOMAS STOUGHTON.

*Es Copia,  
Luis de Onis.*

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(Translation.)

*The Chevalier de Onis to the Secretary of State.*

*Philadelphia, November 2, 1817.*

SIR,

I have just received a statement, dated the 14th of July, addressed to me by the directors of the royal Phillipine company at Madrid, informing me of the unfortunate fate of two ships belonging to the said company, the one named "Nuestra Senora del Buen Suceso," alias, "La Esperanza," and the other, "El Triton," captured, the first on the 8th of June last, the day on which she sailed from Cadiz for Calcutta and Manilla, by the pretended insurgent privateers "La Independencia del Sur," commanded by James Chaytor, of 18 guns and one traversing 42 pounder; and the Mangory, under the orders of the same Chaytor, of 14 guns and one traversing 56 pounder; and the ship "Triton," from Calcutta and the coast of Coromandel, which was captured off the Cape de Verd Islands, after a gallant defence of two hours and a half, in which she lost 20 killed, and sprung her foremast, by a privateer (of the same description as the two above mentioned) called the Regent, alias Trepacamara, commanded by one Manson, who, when seventeen days out from Baltimore, fell in with the "Triton" and conducted her as a prize to Buenos Ayres, where she arrived on the 2d of April last, according to the advices received by the underwriters at Lloyds, from their agent at Buenos Ayres.

The directors of the royal Phillipine company, in giving me an account of these distressing events, inform me that they have understood by the advices which I have given to the principal Secretary of State of the king my master, that captain James Chaytor of the piratical vessel "La Independencia del Sur," kept depending, a demand made at the instance of the Spanish consul at Norfolk, relative to the safe keeping of certain Spanish property deposited in the custom house of that port by the abovenamed pirate, and one called the "Atrevida;" whence it is incontestably proven that the armament of

“La Independencia del Sur,” is made in the ports of these States, and that the captain, officers, and the greater part of her crew are likewise subjects of the same States. From presumptive causes and circumstances they suppose that the other privateer may be the “Regent,” alias, “Trepacamara,” captain Manson, which vessel sailed from Baltimore seventeen days previous to his capturing the “Triton.”

I have repeatedly found myself under the painful necessity of representing to the President, through the medium of your predecessors, that the 14th article of the treaty between his catholic majesty and the United States, establishes the most positive right of reclamation on the government and those citizens who have taken or do take part in the numerous armaments of privateers which have taken place in the ports of this republic, under cover of the pretended commissions so profusely circulated by the insurgents of the revolted provinces of the king my master, to attack openly and in a barefaced manner the subjects and commerce of Spain; and that the same article declares those to be pirates who engage in these horrid cruizes, and consequently obliges the contracting parties to punish them as such, as a just atonement for their offences. On the 2d and 15th of January, and on the 29th of March last, I officially addressed your immediate predecessor, and remonstrated against the robberies and outrages committed by various privateers, and among others, by those called “Independencia del Sur,” and “Mangory,” the captains of which, James Chaytor and Barnes, are citizens of these States. In the note transmitted to the Secretary on the 4th of March, (14th March) I found myself under the necessity, in consideration of the excesses committed against the subjects of the king my master, and of those which through the impunity and toleration of some of the authorities of this country were about to be repeated by vessels bought, armed, manned, and equipped in the ports of this republic, in violation of the laws of nations, of the express stipulations of an existing treaty, and of the rights of humanity; and in discharge of my duty, I was laid under the necessity, I say, of representing and remonstrating in the name of my sovereign, on the subject of the injuries and losses which had already resulted and might further result to his subjects; and at the same time, of protesting against the authors of the same. The capture of the ship “Esperanza,” has been one of the fatal consequences of allowing the privateers “Independencia del Sur,” to proceed freely to sea from Norfolk, after his catholic majesty’s consul, Don Antonio Argote Vallolábos had made proof of the illegal conduct and atrocious acts of her captain, James Chaytor; and that of the ship “Triton,” proceeds likewise from toleration granted in this country, of arming and equipping against the trade of Spain; under which supposition, I cannot refrain from stating to you, in order that you may be pleased to communicate the same to the President, that the aforesaid royal company of the Phillipines,



have an incontestable right to claim of this republic full compensation for the value of the said ships and cargoes, by reason of the armament of the privateers which captured them, having been made in its ports.

I have the honor to enclose, for the suitable purposes, a note of the articles shipped on board the "Esperanza," at Calcutta and Manilla, for the account of the royal Phillipine company, and of the return cargo of the "Triton," from Bengal and the coast of Coromandel to Cadiz; which sums united, amount, according to the invoice, to that of seven hundred and one thousand, nine hundred and eighty dollars, to which is to be added an interest of fifteen per cent. on the disbursement of the amount of the cargo of the "Triton," for the period of one year and a half, and of six per cent. in Europe, on the cargo of the "Esperanza."

I hope you will take into consideration the contents of this note, and be pleased to call the attention of the President to the interesting subject treated of in it, that his catholic majesty may adopt such measures as his wisdom may dictate to him, for the purpose of collecting as far as it may be possible, any parts of the two prizes above named, for the benefit of their owners, and at the same time, giving orders to the competent authorities in the ports of this republic, to discover such effects as may arrive, making part of the same.

I therefore hope this from your established zeal, and the well known rectitude of the President, deferring to my return to the seat of government, the verbal communication of a plan which I have meditated, from a desire to settle amicably, an affair of such importance.

I avail myself of this occasion,

To renew to you my respects, &c. &c. &c.

(Signed)

LUIS DE ONIS.

*Philadelphia, November 2, 1817.*

(Translation.)

*Mr. Onis to the Secretary of State.*

SIR,

When I had the honor to communicate to you, that in virtue of the orders which the President had sent to the marshal at Baltimore,



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**DOCUMENTS**

*Referred to in the Report of the Secretary of State, of the 14th March, accompanying the message of the President of the same date, transmitted to the Speaker of the House of Representatives, the 15th April, 1818.*

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WASHINGTON:

PRINTED BY E. DE KRAFFT.

1818.

18. Don Pedro Cevallos to Messrs. Pinckney and Monroe, dated 31st March, 1805.
19. Messrs. Pinckney and Monroe to Don Pedro Cevallos, dated 9th April, 1805.
20. Don Pedro Cevallos to Messrs. Pinckney and Monroe, dated 9th April, 1805.
21. Messrs. Pinckney and Monroe to Don Pedro Cevallos, dated 12th April, 1805.
22. Don Pedro Cevallos to Messrs. Pinckney and Monroe, dated 13th April, 1805.
23. Messrs. Pinckney and Monroe to Don Pedro Cevallos, dated 20th April, 1805.
24. The same to the same, dated 12th May, 1805.
25. Propositions communicated in the foregoing letter.
26. Mr. Monroe to the Prince of the Peace, dated 14th May, 1805.
27. Don Pedro Cevallos to Messrs. Pinckney and Monroe, dated 15th May, 1805.
28. Messrs. Pinckney and Monroe to Don Pedro Cevallos, dated 18th May, 1805.
29. Don Pedro Cevallos to Messrs. Pinckney and Monroe, dated 20th May, 1805.
30. The same to the same, dated 22d May, 1805.
31. An address to the king of Spain by Mr. Monroe, dated 22d May, 1805.

*Department of State, April, 15, 1818.*

## A

*Mr. Monroe to Mr. Talleyrand.*

*Paris, 8th November, 1804.*

*17th Brumaire, 13.*

SIR,

Before the conclusion of the late treaty between the United States and France, your excellency will recollect that it was an object of the President of the United States, to acquire of Spain, by amicable arrangement, Florida; it being that portion of her territory which she held eastward of the Mississippi. It was still his object after the conclusion of that treaty, not that it was pressed by such imperious considerations as before, but that, as it would contribute to remove all cause of uneasiness and jealousy between the two powers, they might adopt and harmonize in such a system of policy as might secure their peace, and give additional protection to their respective possessions in that quarter, especially to those of Spain. In the conferences which produced the treaty, the good offices of his imperial majesty were engaged to the United States, in any negotiation which the President might commence with the catholic king for the acquisition of Florida. The same assurance was renewed after the conclusion of the treaty, though it was intimated that that was not a suitable time for the commencement of a negotiation. It was on that intimation, as your excellency will also recollect, at a moment when I was about to set out for Spain, in pursuit of the object, (the then recent orders of the President permitting it,) that I postponed my journey thither, and took a different position. The proposed negotiation with Spain, was in consequence, and has since remained, suspended, and it is in obedience to late orders, from my government, that I am now so far on my way to Madrid on that subject, and that Mr. Livingston has requested the good offices of the emperor in support of it. It is proper to remark, that since the epoch referred to, the treaty then just concluded between the United States and France, has been carried into effect in its great points, with that scrupulous attention to good faith which does to both parties the highest honor. Their conduct in that transaction gives to each a pledge for the integrity which is to prevail in their future intercourse. I may be permitted to add, that as I declined my visit to Spain at that epoch, the more readily to give an opportunity for the complete execution of that treaty, so, now that it is carried into effect, I undertake it with the greater pleasure, since it confirms me in the confidence before entertained, of the support which would be given in it by his imperial majesty.

The President has been induced to adopt this measure at this time, by considerations the most urgent. As these are inseparably connected with the proposed negotiation, indeed form in part the object of it, it is due to the friendship subsisting between our governments, and to the candor which the President will never fail to observe in his transactions with the emperor, to give you a distinct idea of them. They will, I doubt not, satisfy you that the President has heretofore shown a sincere desire to cultivate the friendship of the catholic king, and that the attempt which he now makes to preserve that relation, is a new and signal proof of that disposition.

Since the treaty between the United States and France, whereby Louisiana was ceded to the former, a question has arisen between those States and Spain, relative to the boundaries of the ceded territory. It is understood that the government of Spain entertains an idea that that cession comprises only that portion of Louisiana which was ceded to it by France, in 1762; that it does not comprize that portion also, which was ceded by her at the same time to Great Britain, distinguished, while in her possession, by the name of West Florida. This pretension of the court of Spain cannot, it is presumed, be supported by even the color of an argument. Had that been the intention of the parties, in the treaty of St. Ildephonso, it would have been easy to have provided for it: the idea was a simple one, which a few plain words would have expressed: but the language of the article referred to conveys a very different sentiment. We find in it nothing which countenances a presumption that the emperor meant to retake from Spain only a portion of Louisiana, or to refer to it in a dismembered state. It was natural to suppose, in accepting a retrocession of that province from a power possessed of the whole, that he would take it entire, such as it was when France possessed it. Accordingly we find that the terms of the article making the cession are as full and explicit to that effect, as it was possible to use. It is not stipulated that Spain should cede to France that portion of Louisiana only which she had received from France; or that West Florida should be exempted from the cession. It is on the contrary, stipulated, that she shall cede it *such as it was when France possessed it*; that is, such as it was before it was dismembered by the cession afterwards made to Spain and Great Britain; that she should cede it *with the same extent that it now has in the hands of Spain*; that is, entire, which it became by the treaty of 1783, whereby West Florida was ceded by Great Britain to Spain; *such as it is according to subsequent treaties between Spain and other powers*, a stipulation which does honor to his catholic majesty, since it proves that in making the cession to France, he intended to cede only what he had a right to cede; that he recollected the treaty which he had concluded with the United States, in 1795; knew the extent of its obligations, and was resolved to execute them with good faith. Your excellency will receive within, a paper containing an examination of the boundaries of Louisiana, which, it is presumed, proves incontestably the doctrine

above advanced, as also, that the river Perdido is the ancient, and of course present, boundary of that province to the east, and the Rio Bravo, to the west.

The United States have other causes of complaint against Spain, of a serious import. In the course of the last war, many aggressions were committed under the authority of the government of Spain; but, as it is presumed, without its sanction, on the commerce of the United States. Her ships of war and privateers took many of their vessels in Europe and America, carried them into her ports, detained and condemned them, under pretexts which cannot be justified. The injury sustained by this proceeding was great and extensive, for which it is the duty of the President to obtain for the sufferers an adequate reparation. A convention was entered into at Madrid, about two years since, between the two powers, which provided a partial remedy for these injuries. The great object, however, was left open for future arrangement. It was owing to that consideration, and to a knowledge that the principal cause of variance was unprovided for, that the negotiation was in truth unfinished, that neither government took any interest in ratifying or executing that convention. The whole subject therefore now lies open for discussion, and it is very much desired to conclude it on such fair principles, as may be satisfactory to his catholic majesty, while it enables the President to vindicate the character of his administration, in obtaining for American claimants, the justice to which they are entitled.

The occlusion of the river Mississippi, about two years past, contrary, not only to the spirit, but the express stipulation of the treaty of 1795, between the United States and Spain, was an act which exposed to essential injury, the interests of the western inhabitants of those States, while it could not be considered otherwise than as an high indignity to their government. His catholic majesty did not hesitate to disavow the act, when complained of by the American minister at Madrid. This disavowal made some atonement to the violated honor of the government, but no reparation for the injuries which had been sustained by individuals. A reasonable, but adequate reparation is still due on that account, and it is expected, that his catholic majesty will see the justice and propriety of making it.

These circumstances have produced an interesting crisis in the political relation of the United States and Spain, which it is the sincere desire of the President to remove by fair and amicable arrangement. If the negotiation which is about to be commenced by his order, does not terminate in that result, it will be owing altogether to the government of Spain. The measure which is now adopted, the negotiation which is invited, are convincing proofs of the sincerity and good faith with which the President seeks to preserve the relations of friendship between the two powers. In the pursuit of this object, no unreasonable pretension is entertained, no unjust demand will be made. On the subject of boundaries, although the Congress, on a thorough conviction of its rights, authorized the taking immediate

possession of Louisiana, according to its antient limits, and of course to the river Perdido to the east; yet the President, from motives of respect to the catholic king, postponed the execution of the measure, to give time for amicable explanations with his government, in full confidence, that they will produce their desired effect. In respect to aggressions on our commerce, and other injuries, it cannot be doubted, that a suitable indemnity will be made for them. The cession of Florida is a question which rests on different ground. The policy of that measure, and the conditions of it, in case the policy is admitted, are points to be decided by each government, for itself, from a view of its interests and other circumstances. Should the cession be made, and the other points be adjusted, there is no reason why the peace and friendship of the two nations should not be perpetual; there would remain no cause of jealousy between them; no points of collision. Possessed of ample territory to satisfy their growing population for ages to come, the United States would be left at liberty to pursue their interior arrangements, without apprehending the interference, or having the disposition to interfere with their neighbors. Such a system of policy on their part, would contribute in a very eminent degree, to the security of the vast dominions of Spain to the south of us. To Spain, it is presumed, that the territory is of but little importance; in itself, it is of none, as it is a barren tract. If she retains it, it must be as a post for troops to be placed there, in opposition to us; a measure which tends to provoke hostility and lead to war. The Havana is a post which answers more effectually every object which she could contemplate from this, while it is free from all the objections that are applicable to the latter. Being an island, it is less assailable by a foreign power; situated in the Gulf of Mexico, it furnishes the means of giving all the protection to her other possessions that she could desire; and by uniting her whole force at one point, increases her means of defence against attack, as of annoying her enemies, in time of war. It is earnestly hoped, that the catholic king will take a dispassionate view of those circumstances, and of the relative situation of the two powers, and meet the President in a suitable provision for their future friendship. Should he, however, be disposed to pursue a different policy, on him will the responsibility rest for the consequences.

The relation which has subsisted invariable between France and the United States, has been of the most friendly character. It is on the knowledge of that fact, and the satisfactory evidence which it furnishes, that the emperor takes an interest in the welfare of the United States; it is on the promise above adverted to, made on his part, to support, with his good offices, any negotiation which the President might commence with the court of Spain, for the acquisition of Florida; as also, on the firm belief, that the attainment of that object, with the amicable adjustment of all subsisting differences between the United States and Spain, must be advantageous to France, that his



good offices have been and are now regulated in support of that negotiation.

My mission to Spain, being extraordinary, is also temporary. As soon as its objects are accomplished, it is my duty to return to London, which I shall do through this metropolis, when I hope to have the honor and pleasure of being presented again to his imperial majesty, and of acknowledging, in person, his friendly aid to my government and country, in a transaction of high importance to its interest, which the President has thought fit to commit in part to my agency.

I beg your excellency to accept the assurances of my high consideration.

(Signed)

JAMES MONROE.

                      
B.

*Mr. Livingston to Mr. Talleyrand.*

SIR,

Mr. Monroe, minister plenipotentiary from the United States to the court of London, is now here, on his way to Spain, where he is specially charged, in conjunction with Mr. Pinckney, to negotiate for the purchase of Florida. He is desirous of carrying with him the good offices of his imperial majesty with the king of Spain for the accomplishment of the object, of which his majesty assured him at the time of the conclusion of the late treaty of Paris, and which your excellency has, upon every occasion in which I have mentioned the subject, had the goodness to repeat to me. Mr. Monroe, wishing to bring this subject more fully before his majesty, has requested me to transmit the enclosed letter for him to your excellency, together with the translation of a memoir on the limits of Louisiana, which has been sent to Mr. Monroe and me by the Secretary of State. I flatter myself that this subject, which I have had the honor to bring before your excellency on various occasions, will meet your attention, and that Mr. Monroe will be enabled, at an early day, to carry with him the assurances of his imperial majesty's friendly support in the negotiation he is about to undertake in Spain.

I embrace this opportunity to renew to your excellency my assurances of high consideration.

*Paris, 12th November, 1804.*

C.

(Translation.)

*M. Talleyrand to the Minister Plenipotentiary of the United States.**Paris, 26 Brumaire, 13th year.*

SIR,

With the letter you did me the honor to address to me on the 12th of November, I received one from Mr. Monroe relative to the mission with which he is charged at the court of Madrid.

I shall hasten, sir, to lay those letters, and the memoir which accompanied them, before his imperial majesty, and make it my duty to reply to the observations which you and Mr. Monroe have done me the honor to address to me, as soon as I am informed of his imperial majesty's intentions.

Be pleased, sir, to accept the assurance of my high consideration.

(Signed)

CH. MAU. TALLEYRAND.

D.

[Translation.]

*Mr. Talleyrand to Mr. Monroe.**Paris, December 21st, 1804.*

SIR,

I had the honor, in Brumaire last, to inform Mr. Livingston, that I would submit to the inspection of his imperial majesty, the letters which he addressed to me, relative to the motives of Mr. Monroe's journey to Spain, and some discussions between the court of Madrid and the United States.

Among the observations made on this subject by Messrs. Livingston and Monroe, his imperial majesty has been obliged to give particular attention to those bearing on the discussions, of which the object is peculiarly interesting to the French government. He has perceived, that he could not be a stranger to the examination of these

discussions, since they grow out of the treaty by which France has ceded Louisiana to the United States, and his majesty has thought that an explanation, made with that fidelity which characterizes him, on the eastern boundaries of the ceded territory, would put an end to the differences to which the cession has given rise.

France, in giving up Louisiana to the United States, transferred to them all the right over that colony which she had acquired from Spain; she could not, nor did she wish to cede any other, and that no room might be left for doubt in this respect, she repeated, in her treaty of 30th April, 1803, the literal expressions of the treaty of St. Ildephonso, by which she had acquired that colony two years before.

Now it was stipulated in her treaty of the year 1801, that the acquisition of Louisiana by France, was a *retrocession*; that is to say, that Spain restored to France what she had received from her in 1762. At that period she had received the territory bounded on the east by the Mississippi, the river Iberville, the lakes Maurepas and Pontchartrain; the same day France ceded to England, by the preliminaries of peace, all the territory to the eastward. Of this, Spain had received no part, and could, therefore, give back none to France.

All the territory lying to the eastward of the Mississippi and the river Iberville, and south of the 32d degree of north latitude, bears the name of Florida. It has been constantly designated in that way, during the time that Spain held it, it bears the same name in the treaty of limits between Spain and the United States, and in different notes of Mr. Livingston, of a later date than the treaty of retrocession, in which the name of Louisiana is given to the territory on the west side of the Mississippi; of Florida, to that on the east side of it.

According to this designation, thus consecrated by time, and even prior to the period when Spain began to possess the whole territory between the 31st degree, the Mississippi and the sea, this country ought, in good faith and justice to be distinguished from Louisiana.

Your excellency knows, that before the preliminaries of 1762, confirmed by the treaty of 1763, the French possessions situated near the Mississippi, extended as far from the east of this river, towards the Ohio and the Illinois, as in the quarters of the Mobile; and you must think it as unnatural, after all the changes of sovereignty which that part of America has undergone, to give the name of Louisiana to the district of Mobile, as to the territory more to the north, on the same bank of the river, which formerly belonged to France.

These observations, sir, will be sufficient to dispel every kind of doubt with regard to the extent of the retrocession made by Spain to France, in the month of Vendemiaire, year 9. It was under this impression that the French and Spanish plenipotentiaries negotiated, and it was under this impression, that I have since had occasion to give the necessary explanations when a project was formed to take possession of it. I have laid before his imperial majesty, the negotiations of Madrid which preceded the treaty of 1801, and his majesty

is convinced that during the whole course of these negotiations, the Spanish government has constantly refused to cede any part of the Floridas, even from the Mississippi to the Mobile.

His imperial majesty has, moreover, authorized me to declare to you, that at the beginning of the year 11. general Beurnonville was charged to open a new negotiation with Spain for the acquisition of the Floridas. This project, which has not been followed by any treaty, is an evident proof that France had not acquired by the treaty retroceding Louisiana, the country east of the Mississippi.

The candor of these observations, proves to you, sir, how much value his majesty attaches to the maintenance of a good understanding between two powers, to whom France is united by connexions so intimate and so numerous. His majesty, called upon to give explanations on a question which interested France directly, persuades himself that they will leave no ground of misunderstanding between the United States and Spain; and that these two powers, animated, as they ought to be, by the sentiments of friendship which their vicinity and their position render so necessary, will be able to agree with the same facility on the other subjects of their discussion.

This result his imperial majesty will learn with real interest. He saw with pain the United States commence their differences with Spain in an unusual manner, and conduct themselves towards the Floridas by acts of violence, which not being founded in right, could have no other effect but to injure its lawful owners. Such an aggression gave the more surprize to his majesty, because the United States seemed, in this measure, to avail themselves of their treaty with France, as an authority for their proceeding, and because he could scarcely reconcile with the just opinion which he entertains of the wisdom and fidelity of the Federal Government, a course of proceeding which nothing can authorize, towards a power which has long occupied, and still occupies, one of the first ranks in Europe.

But the Federal Government having entered the path of negotiation, and the question which divided the two powers being cleared up, there is reason to hope that they will easily agree on the other points; and this, his majesty, from the sincere interest which he feels for the equal prosperity of the two nations, ardently desires.

Accept, sir, the assurance of my high consideration.

(Signed,)

CH. MAU. TALLEYRAND,

No. 1.

*Messrs. Pinckney and Monroe to Mr. Cevallos.**Aranjuez, January 28, 1805.*

SIR,

It is the sincere desire of the President to establish the relations between the United States and Spain, on a footing of permanent friendship. As a signal proof of this disposition, he has instituted an extraordinary mission to his catholic majesty, with full power, in conjunction with their minister plenipotentiary at Madrid, to enter into such arrangements, on just and equal principles, as may be best adapted to the object. The situation of the two countries, at this time, required such an effort on his part, and it is our wish, as it is our duty, to do every thing in our power to carry it into effect.

It is proper to examine impartially the several points which are depending between our governments. To make their friendship perpetual, every cause of complaint and inquietude should be brought into view, and amicably settled. For this purpose it is necessary to ascertain the respective rights in each case; since thereby an unerring rule will be established by which the adjustment may be made, and their future harmony secured. No just government will ever demand any thing which will not bear the test of that rule; no just government will ever refuse to discharge an obligation which it imposes. We will proceed in this inquiry, in full confidence that both our governments are animated with the same zeal to do justice, with the same desire to cherish the friendly relations which have, heretofore, subsisted between them.

In the course of the last war many aggressions were committed on the peaceful, and, as it is presumed, lawful commerce, of the United States, to the great injury of their citizens within the territory and jurisdiction of Spain, for which they are entitled to compensation. It cannot be doubted that Spain is responsible for these injuries, in all cases where the condemnation was contrary to the laws of nations, the subsisting treaty between the two powers, and those principles of justice, which are recognized and respected by other nations. It is to be regretted that a perfect accord has not yet taken place between our governments, on the mode of adjusting all the claims proceeding from this cause. It is, however, matter of much satisfaction to observe, that they have gone so far in the establishment of just principles, and approached so near in sentiment, as to justify the expectation that all differences will now be removed.

The discussions which have already taken place, on the subject, have too fully illustrated its merits, to require any thing to be added on that point at present. We observe, with pleasure, that the President reposes too much confidence in the high character of his catholic majesty, which is distinguished by a sacred regard to justice, to doubt his agreement to whatever it dictates. The proposition, which we have the honor to make to your excellency, rests on that basis, and will, therefore, we flatter ourselves, receive his sanction. Your excellency will find, that, in the terms of payment of such sums as may be awarded, a new accommodation is proposed, which is an additional proof of the disposition of our government to conciliate the views and interests of his catholic majesty, in this transaction.

The suppression of the right of deposite, at New Orleans, by the intendant of his majesty, in the winter of 1802-3, contrary to the treaty of 1795, to the great injury of the citizens of the United States, who inhabit the territory which is bounded by the Mississippi, and the waters emptying into it, is also an act for which they are entitled to reparation. By restoring the deposite, on the complaint of the President, his majesty gave a satisfactory proof of his strict regard to the obligation of treaties, and the principles of justice; but by so doing the injuries which had been sustained by individuals were not redressed, nor were the just views of his majesty, in that respect, completely fulfilled. It is presumed that he will not hesitate to allow an adequate indemnity for the losses which were sustained by this act of the intendant. It is one of the objects of the enclosed project to provide for them.

The above are the injuries which have been received by citizens of the United States, for which it is proposed to provide a suitable compensation. In seeking justice, however, it is equally the duty of their government to render it. It is possible that his majesty's subjects may have received injuries, within the territory or jurisdiction of the United States, or by their officers elsewhere, for which those states are also responsible. It has been the invariable effort of their government to preserve the best understanding with his catholic majesty, by a faithful observance of every duty imposed by the law of nations, and the treaty subsisting between them, in their political and commercial intercourse. If such injuries have been rendered, it is the earnest wish of the President, that a just reparation should be made for them.

For the fair and amicable adjustment of all such claims, on both sides, it is proposed to establish a board of commissioners, impartial and independent, which shall be vested with full power to hear and determine, and grant awards for all such as shall appear to be well founded. This mode has proved adequate in similar cases, between the United States and other powers. It is not doubted that it would prove equally so between the United States and Spain.

There is another question which it is equally proper to adjust at this time. By the cession of Louisiana, by his majesty the emperor of France, to the United States, it becomes necessary to settle its boundary with the territories of his catholic majesty in that quarter. It is presumed, that this subject is capable of such clear and satisfactory illustration, as to leave no cause for any difference of opinion between the parties. By the treaty of April 30th, 1803, between the United States and France the latter ceded to the former, the said province in full sovereignty, in the same extent, and with all the rights which belong to it, under the treaty of October, 1800, by which she had acquired it of Spain. That the nature and extent of the acquisition might be precisely known, the article of the treaty of St. Ildefonso, making the cession, is inserted in that of Paris. To a fair and just construction, therefore, of that article, the United States are referred for the extent of their rights under the treaty of 1803. There is nothing to oppugn its force, or detract from the import of its very clear and explicit terms. We have the honor to present to your excellency a paper on this subject, which, we presume, proves in the most satisfactory manner, that the boundaries of that province, as established by the treaties referred to, are the river Perdido to the east, and the Rio Bravo to the west. The facts and principles which justify this conclusion are so satisfactory to our government, as to convince it, that the United States have not a better right to the island of New Orleans, under the cession referred to, than they have to the whole district of territory which is above described. Aware, however, that the question of boundary was one, in which his catholic majesty was also interested, the President was not unmindful of what was due to that consideration. In pursuing and supporting the just rights of the United States, he is far from wishing to interfere with or encroach on those of Spain. As neighbors, he was also sensible of what was due to that interesting relation. And as a power which claims respect in its intercourse with other nations, he was resolved to give a distinguished proof of that of the United States, for his catholic majesty, in the present case. Thus no step has been taken since the territory was surrendered to those States by France, otherwise than a strong expression by the Congress of its sense of their rights. No portion of it has been garrisoned, or even possessed by their troops, which could involve any question of the kind adverted to, or manifested a disposition incompatible with these first and friendly sentiments. His definitive arrangements are yet to be taken. He seeks to adopt them in harmony with the sentiments and interests of his catholic majesty; a motive which induced the measure of an extraordinary mission, and inspires this communication.

So far we have treated of the boundary, which, of right, ought to be established between the two nations. It is, however, proper to examine and treat the subject in another view. By the acquisition of Louisiana, the United States and Spain have assumed, in some respect, a new relation to each other. It is, in its nature, a very inter-

esting one. It is practicable at this time, to place it on such a footing, by suitable arrangements, as to preserve their friendship for ages. The importance of the subject, merits their very diapassionate consideration, since a failure to adopt such, may be productive of much harm. Happily, it is an unquestionable truth, that in consideration of the permanent and substantial interests of the two powers, there does not exist, at present, a single point of collision, an opposing interest between them. There are some topicks only, of uneasiness and jealousy, easy to be removed; but which, if suffered to continue, may engender animosities, imbitter their intercourse, and finally prove a cause of much trouble and even misfortune to both nations. To remove them, requires no sacrifice; on the contrary, much will be gained, since by so doing, their harmony and with it, their permanent interests will be secured.

What effect does the acquisition of Louisiana, by the United States, produce on the interests of two powers in reference to each other? and what ought it to produce in their policy? These questions admit a ready answer. That province is bounded by Florida to the east, and Mexico to the west; hence, Florida is surrounded on every side, that of the ocean excepted, by the territory of the United States. It is of course, an object with those states to possess it. And as Louisiana extends westward to Mexico, it is presumed, to be an object with Spain, to retard the progress of their settlements in that quarter. Here then is the obvious ground of an accord between the two nations, in an arrangement, which seems to be well adapted to accomplish an object which each deems of importance. The project which we have the honor to present to your excellency, is intended to conciliate and provide for those interests. It is believed, that its adoption will effectually do it. Your excellency must be sensible, under existing circumstances, and especially since the acquisition of Louisiana, that that of Florida has become an object of much less importance to the United States. It is not from a want of territory, because it is known not to be fertile, and without it, they have enough to satisfy their growing population for ages. It is in truth suggested more by a desire to remove all cause of future variance between them and Spain, than the hope of any immediate advantage to be derived from it. While that province remains to Spain, it must be, in some degree, a cause of jealousy to the United States. Situated in their interior, and detached from the other dominions of his catholic majesty, it is probable, to render it secure, that he would be compelled to put a strong force there; hence, the United States would be compelled to do the same. Thus the attitude of hostility would be immediately taken, which a thousand causes would tend to promote. The jealousy of governments so contiguous to each other, the rivalry of governors and generals, and the conflict of commercial regulations, could not fail to produce that effect; in addition to which, it cannot be doubted, that other powers would take a pleasure in seeing a rupture between the United States and Spain. It is presumed that they



are interested in it. Remove, however, this obstacle, and establish, on just principles, their western boundary, and all cause of inquietude and misunderstanding will be at an end. Their territories and police will be distinct, and their military stations at some distance from each other. Each power will regulate its own concerns as it thinks best: neither will be interested in disturbing those of the other. Their governments, on the contrary, will find themselves bound by their interest, their faith, and their character, to keep their citizens within their own limits, which it will take ages to fill. Should Spain not place a strong force in Florida, it will not escape your excellency's attention, that it will be much exposed to the danger of being taken possession of by some other power, who might hold it with very different views towards Spain, than those which animate the government of the United States. Without a strong force there, it might even become an asylum for adventurers and freebooters, to the great annoyance of both nations. In this light, however, we forbear to press it.

It is proposed by the enclosed project to establish a district of neutral territory, between the two powers, on which neither party shall encroach, and, with a view to accommodation, that it should be exclusively for a given term, within the supposed limits of Louisiana. We are willing that this term should amount to twenty years, to give time for ulterior arrangements relative to that object, and the establishment of a permanent boundary between them in that quarter. If the boundaries of Louisiana are, as our government believes them to be, and, as we presume, is sufficiently proved by the enclosed paper, this arrangement cannot fail to be viewed in the light it is intended. This proposition, however, is not offered as an equivalent for the cession of Florida. It is proposed to make a pecuniary compensation for the cession, to an amount which is deemed equal to the value. To fix that value, in case his catholic majesty is disposed to make the cession, cannot be difficult, since, without regarding other considerations, the sum given for the whole province of Louisiana, furnishes a just and suitable standard. By comparing the extent of the territory of Louisiana with that of Florida, and taking into consideration the immense advantages derived to the United States, from the entire command of the Mississippi, and all the waters emptying into it, which followed the cession of Louisiana, we are promptly led to a fair result. On this point, we wish to confer in person, when it may suit your excellency's convenience. The sum which may thus be agreed on, it is wished to appropriate in the manner mentioned in the proposed convention.

In seeking to terminate amicably all subsisting differences between the two powers, and to place their future relations on a basis of permanent friendship, it is thought that a formal stipulation in behalf of each, not only to observe the limits which may be agreed on between them, but to cause them to be observed by their respec-

tive citizens and subjects, may have a very salutary effect. If such a stipulation is regarded only as a proof of the spirit in which the convention is formed, it will always have weight with both governments to insure a compliance with it. But it merits to be viewed in a stronger light, since it makes it the duty of each government to be attentive to, and to enjoin it on their citizens and subjects, respectively, strictly to observe the same.

As the convention of the 11th August, 1802, has not been carried into effect, it is thought best to suffer it to fall and incorporate its contents into the present one. On that principle the project is formed. There seems to be a propriety in accommodating all subsisting differences, and providing for the respective interests of the two powers, to comprise the stipulations which are necessary in the same instrument. To this mode, however, we have no preference, and only submit the idea to your excellency's consideration.

To facilitate the communication, and promote despatch, in an object of so much importance to our government, we have the honor to annex a translation into French, of this note, and the papers which accompany it, to your excellency. It is as correct as it could be made, by those attached to the legation, to whom alone could be confided their contents. We beg leave, however, to observe, that we consider ourselves responsible only for the originals, which are in English.

We beg your excellency to accept the assurance of our distinguished consideration.

(Signed)

CHARLES PINCKNEY,  
JAMES MONROE.

*To his excellency, Don Pedro Cevallos, &c.*

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## No. 2.

*Project of a convention between his catholic majesty and the United States of America, communicated with the foregoing letter.*

### ARTICLE 1.

Spain acknowledging and confirming to the United States, the cession of Louisiana in an extent eastwardly to the river Perdido, cedes to them forever, all the territory remaining to her between the Mississippi, the Atlantic, and the Gulf of Mexico, together with all the islands thereunto annexed, either whilst the Floridas belonged to Great Britain, or after they became provinces of Spain.

Possession of the said territory shall be delivered to a person authorized by the United States to receive the same, within days, or less, if practicable, after the exchange of the ratifications of this convention. With the said territory shall be delivered all public property, except ships and military stores, as also all public archives belong to the same.

Within days after the delivery of possession, or sooner if possible, the Spanish troops shall evacuate the territory hereby ceded; and if there should be any Spanish troops remaining within any part of the territory ceded by France to the United States, all such troops shall, without delay, be withdrawn.

Spanish subjects within the ceded territory, who do not choose to become citizens of the United States, shall be allowed eighteen months to dispose of their real property, and to remove or dispose of their other property.

The inhabitants of the ceded territory shall be entitled to the same incorporation into the United States, and to the same protection in their religion, their liberties, and their property, as were stipulated to the inhabitants of the territory ceded to the United States by the treaty of April 30th, 1803, between those States and France.

## ARTICLE 2.

It is agreed that for the term of years, no lands shall be granted, nor shall persons who may have settled since the 1st of October, 1800, on lands not granted prior thereto, be permitted to continue, within the space defined by the following limits, to wit: by a limit consisting of the river Colorado on the one side, from its mouth to its source, thence a straight line to the most south westwardly source of the Red river, with such deflections however, as will head all the waters of that river. Thence along the ridge of the high lands, which divide the waters belonging to the Missouri and Mississippi, from those belonging to the Rio Bravo, to the latitude of the northernmost source of that river; thence by a meridian to the northern boundary of Louisiana and by a limit, on the other side of the Rio Bravo, from its mouth to its source, and thence a meridian to the northern boundary of Louisiana.

Such of the settlements within the foregoing limits not prohibited by the preceding clause, as were under the authority of the government of Louisiana, shall continue under the authority of Spain. Such as were under that authority, shall be under the authority of the United States. But the parties agree that they will, respectively, offer reasonable inducements, without being obliged to use force, to all such settlers to return from the space above limited, and establish themselves elsewhere.

The Indian tribes within the said limits shall not be considered as subject to, or exclusively connected with, either party. Citizens of the United States, and Spanish subjects, shall be equally free to

trade with them, and to sojourn among them, as far as may be necessary for that purpose; and each of the parties agrees to restrain by all proper and requisite means, its respective citizens and subjects from exciting the Indians, whether within or without the said limits, from committing hostilities or aggressions of any sort on the subjects or citizens of the other party. The parties agree, moreover, each of them, in all public transactions and communications with Indians, to promote in them a disposition to live in peace and friendship with the other party.

It shall be free for Indians now within the territories of either of the parties, to remove to, and settle within the said limits, without restraint from the other party. And either party may promote such a change of settlement by Indians within its territory, taking due care not to make it an occasion of war among the Indians, or of animosities in any of them against the other party.

The United States may establish garrisons sufficient as security against the Indians, and also trading houses at any places within the said limits where garrisons existed, at any time, under the Spanish government of Louisiana. And Spain may continue garrisons for the like purpose, at any places where she now has them, and establish trading houses thereat. Either party may also cause or permit any part of the country within the said limits to be explored and surveyed with a view to commerce or science.

It shall be free for either of the parties to march troops within the said limits against Indians at war with them, and for the purpose of driving or keeping out invaders or intruders.

### ARTICLE 3.

It is agreed that within — years previous to the expiration of the aforesaid term of — years, due provision shall be made for amicably adjusting and tracing the boundary between the territories of the United States, westward of the Mississippi, and the territories of his catholic majesty, which boundary shall then be established according to the true and just extent of Louisiana as ceded by Spain to France, and by France to the United States, uninfluenced in the smallest degree or in any manner whatever by the delay, or by any arrangement or circumstance contained in or resulting from this convention.

It is also expressly stipulated by the parties, that they will cause the limits which are hereby defined, or may be hereafter defined between them, to be faithfully observed, by restraining their respective citizens and subjects, by suitable arrangements, from violating them in any manner whatever.

### ARTICLE 4.

His majesty and the United States, wishing in the same spirit of conciliation, amicably to adjust the claims which have arisen from

the wrongs and excesses committed during the late war, by individuals of either nation, or by others within the territory or jurisdiction of either, contrary to the laws of nations, the treaty existing between the two countries, or the principles of justice, have determined that the same shall be adjusted in the following manner:

A board of commissioners shall be formed, consisting of five commissioners, two of whom shall be appointed by his catholic majesty, two others by the President of the United States, with the advice and consent of the Senate, and the fifth by common consent of the four commissioners, and in case they should not be able to agree on a person for the fifth, the commissioners of each power shall name one, and leave the decision to lot, and hereafter in case of the death, sickness, or necessary absence of any of those already appointed, the remaining commissioner or commissioners of the power whose commissioner is dead or unable to attend, shall fill the vacancy.

When thus appointed, each one of them shall take an oath to examine, discuss and decide, impartially on the claims which they are to judge, according to the laws of nations, the existing treaty, and the principles of justice.

The commissioners shall meet and hold their session in Madrid, where, within the term of eighteen months, to be reckoned from the day on which they assemble, they shall receive all claims, which, in consequence of this convention may be made, as well by the subjects of his catholic majesty, as the citizens of the United States of America, who may have a right to demand compensation for the wrongs and excesses committed by Spanish subjects or American citizens, or others within the territory or jurisdiction of either of the contracting parties. The commissioners are authorized to hear and examine on oath, every question relative to the said demands, and receive as worthy of credit, all testimony and evidence, the authenticity of which cannot be doubted. The said commissioners shall grant awards for the sums which may be due to the several claimants, with interest on the same at the rate of six per cent. per annum, to commence from such dates respectively, as to them shall appear to be just.

From the decision of the commissioners there shall be no appeal, and the agreement of three of them shall give full force and effect to those decisions, as well with respect to the justice of the claims, as the amount of the indemnifications which may be adjudged to the claimants; the said contracting parties obliging themselves to satisfy the said awards in specie, in the manner stipulated by the 6th article of this convention.

#### ARTICLE 5.

The said commissioners shall also take cognizance of, and estimate all damages which were sustained by the citizens of the United

States, by the suppression of the right of deposit at New Orleans by the intendant of his catholic majesty, in the years 1802-3, contrary to the treaty of 1795, for which the said commissioners shall grant a certificate to the government of the United States, the amount whereof shall be paid to it by the government of Spain, in the same manner as is stipulated in favor of other claims in the preceding article. The government of the United States, shall pay the sums thus received, to the individuals who were injured by the suppression of the said deposit.

#### ARTICLE 6.

It is further agreed that the respective governments will pay the sums awarded by the said commissioners under this convention, in the manner following:

The government of the United States shall pay all such sums not exceeding in \_\_\_\_\_ dollars, which may be awarded as compensation to citizens of the United States, from his catholic majesty, in three equal annual instalments, at the city of Washington; the first instalment to be paid in eighteen months, after the exchange of the ratification hereof, or in case they shall not be so paid, they shall bear an interest of six per cent. per annum, from the time they become due until they are actually discharged; and in case the aggregate of the said sums should not amount to the said sum of \_\_\_\_\_ dollars, the United States will pay to his catholic majesty, within one year after the final liquidation of the claims cognizable by the said board, at the city of Washington, so much as the said aggregate may fall short of the sum abovementioned; but on the other hand, if the whole amount of the sums awarded to citizens of the United States should exceed the sum of \_\_\_\_\_ dollars, his catholic majesty shall pay the surplus without deduction, to such claimants, within one year after their claims shall be respectively liquidated. The said claims shall, nevertheless, bear an interest of six per cent. from the time of their liquidation until they are discharged.

The government of the United States shall also pay without deduction, at the city of Washington, all such sums as may be awarded against them by the said commissioners for compensation due to Spanish subjects, within one year after their claims shall be liquidated, and from the time of their liquidation, the said claims shall bear an interest of six per cent. per annum until they are discharged.

#### ARTICLE 7.

This convention shall be ratified within \_\_\_\_\_ after the signing thereof, or sooner if possible, and the ratifications

shall be exchanged within \_\_\_\_\_ days after the ratification by the United States at the city of Washington,

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No. 3.

(Translation.)

*Don Pedro Cevallos to Messrs. Pinckney and Monroe.*

*Aranjuez, 31st January, 1805.*

GENTLEMEN,

The king, my master, having on all occasions given such repeated proofs of his friendship towards the United States, and of his sincere desire to live with them in peace and harmony, could not but hear with pleasure, what you have been pleased to manifest in your esteemed note of the 28th inst. relative to the desire of the President of the United States, to fix the friendly relations of the two countries, in a manner the most solid and permanent, and that for this purpose the American government had named an extraordinary mission at this court, to commence such negotiations as might be best adapted to complete an object of so much importance, and founding them on just and impartial principles. His catholic majesty, on his part, desires nothing more ardently than that those equal and just principles, so conformable to the rectitude of his royal mind, may direct the discussions and negotiations depending between the two governments. For this end, nothing appears better adapted than the mode proposed by your excellencies, in the first part of your note.

According to this principle, proposed by your excellencies, and which, certainly, is highly worthy the good faith of both governments, it appears the most proper, that, before we proceed to examine projects of a convention, which ought to result from discussions of all the different points in dispute, we should first examine each point separately, and in this form, determine the respective rights of each country, and then proceed to such negotiations as the interests of each country may require. Under this idea, and following the tenor of your note, it appears that the points depending may be reduced to the following:

1st. The damages occasioned during the late war, by the excesses committed by individuals of both countries, contrary to the law of nations, and the existing treaty. This point is nearly decided by the convention of 1802, which has been ratified by the American government; and his majesty, on his part, is disposed to ratify the same, af-

ter the obstacles which occasioned its postponement shall be removed. Thus there is but little to regulate on this point, considering how far it is already advanced, and that the sincere desire of both governments is to proceed with candor and good faith.

The 2d point mentioned in your excellencies' note, relative to the indemnification of injuries supposed to have been received by American citizens, in consequence of the suppression of the right of deposite at New Orleans, by order of the intendant of that city, is a point of discussion which has not yet been commenced, and it is one on which the Spanish government is convinced, that the United States have neither any motive or right to found a reclamation.

3d. This point which is relative to the demarcation of the limits of Louisiana, retroceded by Spain to France, and by her transferred to the United States, by its nature, subdivides itself into two others, to wit: the demarcation of the limits of Louisiana on the east, or side of the Floridas, and that on the side of the interior provinces of New Spain. As a testimony of the desire with which his majesty is actuated, that these demarcations may be executed with the skill and justice requisite, and at the same time, with all possible despatch, I have to inform you, what is already known to your government, that, at the commencement of the last year, the king named for his commissioner, for these demarcations and limits, brigadier marquis of Casa Calvo, who is now at New Orleans with the engineer Don Josef Martines.

Not having yet agreed upon others of the said points mentioned in your excellencies' note, and they being by their nature unconnected, it appears that it would only be confounding them, and multiplying their confusion, to treat upon the whole at once, and proceed immediately to form, for either party projects of a convention, from the mass, analyse these incorporated points of discussion, and discussion of them will become much more simple and plain, and with this new light, it will, after, be easy to embrace the whole at one view.

This method is clear and simple, and, according to my idea, is what you indicate in the first part of your note. This being the case, it appears to me, that we may occupy ourselves, in the first place, in determining the point relative to the reclamation, for which purpose, we may take up the convention of August, 1802, by reason of its almost finished state. Fix the rights of each country on each point, and the means will be plain and easy to negotiate them with that equal utility, which both countries may find convenient. I have no doubt but you will find this method of proceeding conformable to reason; and waiting your reply, I am, &c.

(Signed)

PEDRO CEVALLOS.



No. 4.

*Messrs. Pinckney and Monroe, to Don Pedro Cevallos.**Aranjuez, 5th February, 1805.*

SIR,

We have received your excellency's letter of the 31st ult. in answer to that which we had the honor to write to you on the 28th, and beg you to be persuaded, that we are highly gratified with the assurance it contains, that his catholic majesty is disposed to meet the President of the United States, in such arrangements, on just and equal principles, as may be necessary to accommodate subsisting differences, and place the relations of the two countries on a basis of permanent friendship. Since our governments are animated with these honorable views, it cannot be doubted, that their object will be accomplished.

Your excellency observes, that it will be more proper to examine, previously and separately, each point depending between our governments, to establish their respective rights, in each, and then proceed to the adoption of such a project of a convention, as may provide for the whole. In this idea, we perfectly agree. It was on that principle, as you justly observe, that our note of the 28th was conceived; by it, every topic of complaint, every question of interest, is presented to your excellency's view. It remains only to decide these several points, and with them, the fortune of the present negotiation. The case of claims for injuries done to the citizens and subjects of either party, within the limits and jurisdiction of the other, being first in order of time, ought to be first determined. As we presumed that this subject had been already sufficiently discussed, we thought it sufficient, in our former note, to submit such an arrangement respecting it as we were authorized to propose. As, however, it seems to be your excellency's desire, we shall not hesitate to communicate more fully the views and sentiments of our government on this point, and the principles on which they are founded. It is the more necessary so to do, to free it from the complexity in which it may otherwise be involved.

It is known to your excellency, that by the convention of August the 11th, 1802. an immediate provision was not made for satisfying the claims of their respective citizens and subjects, for all the injuries which they had received in the course of the last war, within the jurisdiction of each power, and for which they were responsible: that it was not then possible for the plenipotentiaries, charged with that subject, to agree on a mode of arbitrating the claims originating from the excesses of foreign cruizers, agents, consuls, or tribunals, in their respective territories, which might be imputable to their two governments, and that in consequence thereof, it was agreed between them,

to provide then for the adjustment and satisfaction of such as were committed by their respective citizens and subjects only, reserving to each government, its citizens and subjects, their respective rights, with liberty to bring forward their claims, at such times as might be convenient to them. Had that convention been carried into effect, at any time before the present, we should have had now to provide for the claims only which were then postponed, whose just title to reparation seems to be sufficiently sanctioned by that instrument. But as that convention has not been carried into effect, and of course no satisfaction made for that portion of the injuries complained of, it is proper that the whole subject should now be taken into view, and definitively settled. It would badly comport with the spirit of the present negotiation, whose object is to adjust every difference, and remove every cause of inquietude, to leave any thing unfinished. Our government considers its citizens entitled to compensation for every injury which they did receive, within the jurisdiction of his catholic majesty, contrary to the treaty between the United States and Spain, the law of nations, and the principles of justice sanctioned by them, whether they were committed by his majesty's subjects and tribunals, or those of any other nation. For all such acts, the government, within whose limits they were committed, is alone responsible, for over them has it the exclusive jurisdiction. A contrary opinion cannot be advanced, without derogating from the established doctrine of the law of nations, or rights of sovereignty incident to each. It is a well established doctrine, that no two nations can, by their accord, or any arrangement between them, change a law adopted by the whole. Such change, if agreed on by any two nations, can only operate as a special compact between them, which finds an equivalent by the reciprocity of the stipulation, or some other article of the treaty, but can never change the relation of either with other powers, or the rights and claims of such other powers on each of those nations. It is equally well established, that protection is due by every government to foreigners within its limits, in return for which they are entitled to their allegiance while they remain with them, as it is that such protection cannot be withdrawn, or the jurisdiction of a foreign power be permitted within its limits, to the injury of a third power. A contrary doctrine supposes separate and independent jurisdictions and governments within the same limits, and altogether confounds the nature of sovereignty, which is complete, absolute, and exclusive, wherever it exists. It is proper to add, that this doctrine of the law of nations, so clear and explicit, is still further enforced by the stipulation of the 6th article of the treaty of 1795, between the United States and Spain.

In the project which we had the honor to present to your excellency, you will find that it is intended to provide for the whole of these claims, whether the convention of August 11th, 1802, is carried into effect, or suffered to expire. In the former case, we should expect that an article be inserted in the proposed one, to provide for those

cases which were not provided for in that. We consider it our duty to inform your excellency, that we cannot consent to any arrangement which does not provide for the whole subject, having received orders to that effect, by a courier who has just arrived with despatches as late as the 3d December last. We owe it to the spirit of candor, which is to prevail in this negotiation, to state to your excellency this fact, and we ask of you to inform us, in the same spirit, whether we are to expect the accord of your government to such an arrangement as will be effectual to this object.

That our government is entitled to expect an adequate compensation for the injuries which our citizens received, by the suppression of the right of deposit at New Orleans, is a point, on which, we did presume, there could be no doubt. The right to such a deposit is stipulated forever to the United States, by the 22d article of their treaty with Spain, either at New Orleans, or on some other part of the banks of the Mississippi, equally convenient to the parties. It is the obvious import of that article, that there never shall be a moment's interruption in the enjoyment of that right; a right which was so necessary to the interests of those dependant on it, and of course to the peace and friendship of the two nations. In exercising the right reserved to his catholic majesty, to change the place of deposit and assign some other equivalent establishment, it is equally the import of that article, that the whole arrangement should be made at the same time; that the same act which suppressed the existing deposit, should open another; and that the government of the United States should be apprised of that intention in due time to prevent their citizens being injured by the measure, and also, to be consulted on the place which it was proposed to substitute to the existing one. In the proceeding which took place at New Orleans, none of those rules were observed; all respect for our government and the rights of our citizens was lost sight of. In short, had that act been imputable to his majesty's government, the President could have seen in it nothing short of a commencement of hostilities; as much so, as if his troops had invaded their territory, or his fleets entered in hostile array, any of their ports. But the President never considered that act as imputable to his majesty's government. He entertained too high a respect for the good faith of the catholic king, to believe that it proceeded from him. He always considered it as the act of the intendant, and was happy in the result, to find that such was the case. Nevertheless, being the act of his majesty's officer, his government is responsible for the injuries resulting from it. Your excellency will find, that as early as March the 25th, 1803, the minister of the United States accredited with his majesty, claimed, by order of the President, an indemnity for these injuries, which was repeated in subsequent notes of the 12th and 23d of April of the same year. It has not since been pressed, because by like order, the subject was reserved with others, for final arrangement at the present occasion.

On the subject of limits, we have little to add to what we have already stated in our former note. By it, a full view is given of what our government conceives to be its just rights in that respect. The commissioners appointed by his majesty for the demarkation thereof, can do nothing till some arrangement takes place between the two governments, to fix the principle which is to guide them. They must remain inactive, until it be known by what course, latitude, meridian, or natural boundary, the demarkation is to be made. It is an important object of the present negotiation, to fix that principle. We take the liberty also to refer your excellency to our former note, and the papers which accompanied it, for the views of our government, on the other topics of a territorial nature. It is not in our power to add any thing on those points to what we have therein stated.

The President being very desirous, with a view to the permanent harmony and welfare of the two nations, to adjust and arrange every question and interest depending between them, and having given us full power for the purpose, waits with anxiety the result. Having had the honor to submit to your excellency, as was agreed in our first interview, our propositions for the attainment of that desirable end, by which the subject is presented equally in detail as in a general view, and having now given the further explanations which were desired by your esteemed note of the 31st ult. we have only to request, that you will give us your answer to the same. As every point has been long under the consideration of his majesty's government, we do not doubt that its mind is made up as to the course the business is to take. It is in his majesty's power, by the answer which you give, to fix at once the relations which are to subsist in future between the two nations. The United States have done every thing in their power, which a regard to justice and the rights of their citizens will permit, to place and preserve them on a most friendly footing; and we flatter ourselves, that his catholic majesty, who is distinguished among sovereigns by his regard for justice and good faith, will meet them in such arrangements as may be effectual to the object.

We beg your excellency, &c.

(Signed)

CHAS. PINCKNEY.  
JAMES MONROE.

*His excellency*

*Don Pedro Cevallos, &c. &c. &c.*

No. 5.

(Translation.)

*Don Pedro Cevallos to Messrs. Pinckney and Monroe,**Aranjuez, February 10, 1805.***GENTLEMEN,**

I see, by the tenor of your esteemed note of the 5th instant, in reply to mine of the 31st ultimo, that we are of the same opinion, as it relates to the principle established, that, to regulate, amicably, all the points depending between the two governments, it is necessary, first to establish the rights of each country upon each one of the points in dispute, and then proceed to bring forward such negotiations as the reciprocal interests of each country may require; and in consequence of the point relative to indemnification for damages, occasioned during the last war, by individuals of each nation, being already so far advanced, that ought, undoubtedly, first to occupy our attention. We will, therefore, in this letter, discuss the points relative to indemnifications, leaving, for another opportunity, the discussion of the limits, which is so different in its nature.

It is just that the losses sustained by the citizens or subjects of either nation, during the last war, contrary to the law of nations, or the existing treaty, should be satisfied; and to this effect the convention of the 11th August, 1802, between the plenipotentiaries of the two governments, was concluded, that the individual sufferers might find a quiet and convenient redress. The intention of the king, my master, always unchangeable, and always conformable to the accredited honor and justice which characterize him, is now the same it was at the time that convention was concluded.

However, some circumstances have taken place, between the time it was concluded, and its ratification, which will make several explanations necessary. In the first place, it appears that many subjects of Spain, who had reclamations to make, having been injured by the citizens of the United States, in consequence of this convention, came to Madrid, from S. America, hearing that it was adjusted; but were obliged to return home, upon the report that the Senate of the United States had refused to ratify it, during the session of 1803. It was but reasonable, then, that the vassals of his majesty should be informed that the convention was ratified, that they might come forward to establish their claims, and for this it was necessary to give them a certain space of time. His majesty proposed that this space of time should be agreed on between the two governments, that the ratification might be known to all those interested.

It having come to the knowledge of his majesty that Congress had, on the 27th February, approved an act, by which it appears the President was authorized to establish customhouses in the territory of West Florida, and as this province belongs to his majesty, he having conquered it, by the valor of his arms, not receiving it from

France, of course could not retrocede it to her, and as he was in the quiet possession of the same, and still remaining possessed, his majesty could not but be offended at this account. Even should it be supposed that the United States have pretensions to this territory, it certainly was not the way to bring them forward, to proceed to acts of possession, and disturb a friendly nation in her rights, by a solemn legislative act. Such conduct must, consequently, appear to his majesty very little conformable to the friendly relations of the two countries, and under such circumstances, it did not correspond with the respect due to his royal person, or to the nation which he governs, to ratify conventions, which are acts of political friendship, with those who had violated, in a solemn manner, the rights of his sovereignty, until they should give satisfaction, or correspondent explanation. Thus, it was just that he should ask this satisfaction, which was done accordingly.

It having also reached the king's notice, that the French government had satisfied the United States, for the damages sustained during the last war, by her privateers, it appeared not only unnecessary, but capable of producing confusion, to let the 6th article of the convention of August, 1802, exist; by which, as his majesty did not confess himself responsible for the damages occasioned by French privateers, on the coast and in the ports of Spain, the United States did not strengthen their rights, which they thought they possessed; and to let it exist would but expose the business to confusion. A desire, therefore, was manifested that the 6th article should be suppressed. For the purpose of making these circumstances known to the American government, his majesty thought proper to suspend the ratification of the convention, and sent off a courier to the United States, with letters to this effect, to his minister plenipotentiary resident there.

Your excellencies are acquainted that your government being instructed relative to the observations which were made to them, by his majesty's minister, upon this subject, agreed to fix a term in which his majesty's subjects, interested in the convention, might have notice of its ratification, and come forward with their claims before the commissioners; and that each government should give orders to its respective citizens and subjects, not to commence their operations, until a convenient term should expire. Thus, upon this article, there remains nothing to do, but to fix this term, in order that the ratification of the convention may take place,

In respect to the second particular, the reply of the American government, was not so decisive and clear as his majesty had a right to expect from a government so friendly. The act of Congress, of the 24th of February, 1804, in *its obvious and literal sense*, disturbed the peaceable possession which his majesty had, and still has, of West Florida, and the explanations of the President of the United States, contained in his proclamation of the 3d of May, saying that it was to be carried into effect *within the United States*, could not be considered but as equivocal and susceptible of a double meaning,

although the explanation of the Secretary of State of the United States, is somewhat more explicit, promising to leave every thing in *statu quo*, until an amicable arrangement should take place with Spain, and that the port of entry, mentioned in the act, would be established at Fort Stoddart, within the present territory of the United States. As his majesty desires to live in harmony with the United States, he wishes to persuade himself, that this explanation, although it does not give that satisfaction, which he had so just a right to expect, is in some measure satisfactory, so far as it respects his quiet possession of West Florida. But could not his majesty complain, that satisfaction has not been given in explicit and solemn terms, for the publicity of a solemn act, whose obvious and literal sense, went to disturb his quiet possessions? On the other hand, it is said, in a plausible manner, that the port of entry shall be at fort Stoddart: but how is it possible to arrive at fort Stoddart, or go from thence to the sea, without navigating the rivers of West Florida, traversing its territory, and disturbing the peaceable possession of his majesty. Thus his well founded motives of complaint, in respect to that act, still exist; and his majesty intends to keep them in mind, that satisfaction may be given by the United States; but as it relates to satisfying the convention of August, 1802, his majesty agrees from this time, to be satisfied in this respect, and thinks, in so doing, that he gives an unequivocal testimony of his friendship towards the United States.

Two obstacles to the ratification of the convention being removed, we should now treat only of what relates to the 6th article of the said convention. His majesty expressed a desire, that this article should be suppressed, under the idea that its insertion would neither add to, nor diminish the rights of the United States, or of his majesty. The clear and obvious sense of that article is, that the two contracting parties, not having been able to agree, relative to the indemnifications reclaimed by the United States, for damages occasioned by French privateers and tribunals, on the coast, and in the ports of Spain, reserved to themselves, for a future day, the rights they might have, the United States to reclaim, and his majesty to show that he was, in no manner, bound to satisfy them. In this particular, therefore, no right is given to the citizens of the United States, or taken away from them, by this article; and during the long space of time that has passed, between the adjusting the convention and its ratification, his majesty thinks he has demonstrated, in a most evident and decisive manner, that he is not responsible for the said indemnification. It appears superfluous to permit the existence of an article that can neither give, or take away any right, and which can only serve to produce confusion.

It never was the intention of his majesty, nor is it now, that the suppression of the said article, should imply a renunciation, by the United States, of the right which they think they have to reclaim the said indemnification; but, on the contrary, only that they should not believe that his majesty renounces, on his part, the right he thinks he

has to resist the payment of it. But, should the American government have any objection to the suppression of the said article, his majesty will not oppose its continuance, provided it be understood in the ratification, that, by the insertion of the 6th article, it is not, in any wise, to be inferred that his majesty renounces the exceptions, which are occasioned by the convention, concluded between the United States and France, the 8th vendemiaire, year 9th, the context of the treaty of the sale of Louisiana, concluded between the same powers; the affirmation of the French government, through the medium of its ambassador, Lucian Bonaparte, that the damages sustained by the United States, during the last war, were satisfied by France, and other strong reasons by which this pretension is opposed.

The American government cannot be surprised, that his majesty wishes to make this explanation in his ratification, if it is recollected that such an explanation is, undoubtedly, contained in the 6th article. It mentions that his majesty *reserves* to himself the *rights* which *belong* to him; although it is not particularly or expressly mentioned, what are the rights which his majesty believes belong to him; and, at present, to avoid ambiguity, he thinks it necessary to explain in the ratification, what these rights are, which are reserved by the 6th article, and to make mention of them.

If the United States, on their part, wish to validate the rights, which they think they have, to exact indemnifications, and also, to reserve them in the same article, it will then be beginning a separate pretension, which in no wise ought to embarrass the regular course of the convention of 1802. It should be reduced to this question: Is Spain responsible or not, for the damages and losses, occasioned by French privateers and tribunals, within her jurisdiction, during the last war? Spain believes that she is not responsible, and thinks that she can demonstrate it to a certainty.

But, as this is the second point in order, relative to the pretensions which your excellencies have manifested, it appears to me convenient, to treat it separately also, after the plan proposed in my note of the 31st ultimo. In the mean time referring you to what I have already written on this point, relative to indemnification for losses sustained by French privateers, &c. to Mr. Pinckney, under date of 23d August, and 5th October, 1803, and to save your excellencies the trouble of referring to the correspondence of that year, I take the liberty to enclose copies of them, and also of the opinions of lawyers, the most celebrated in the United States, who have been consulted upon this subject, and who unanimously declare, that Spain was not responsible to satisfy the said indemnities; and, in which declaration, these lawyers gave a proof of their rectitude, by declaring their sincere concession of the slender foundation, on which these reclamations of their country rested.

I conclude this letter, by assuring your excellencies that his majesty is disposed to ratify the convention of the 11th August, 1802, in the form which has been mentioned, and that, should your excel-



lencies find no difficulty in so doing, as I hope will be the case, immediately after the ratification of the convention, we will proceed to the other depending points, and finally, to those negotiations, which the reciprocal interests of both countries may require.

I renew to your excellencies the assurances, &c.

(Signed)

PEDRO CEVALLOS.

*Messrs. Pinckney & Monroe,*



No. 6.

*Messrs. Pinckney and Monroe to Don Pedro Cevallos.*

*Aranjuez, February 12, 1805.*

SIR,

We have received your excellency's letter of the 10th instant, and have considered it with the attention which was due to an interesting communication, on a subject of great importance to the United States. By it we perceive, with regret, that an accord is not likely to take place between us, on the point to which it refers, since it appears that his catholic majesty is not disposed to make reparation to the government of the United States, for all the injuries which their citizens received under his jurisdiction, of the character described in our former note, whether the same were committed by his majesty's subjects, or those of any other power. Having had the honor to inform your excellency that we could accede to no arrangement which did not provide for every injury, it seems useless to prolong the discussion on that point. We submit it to your excellency's consideration, on what we have already said.

Your excellency having expressed a desire to leave the other points to be discussed afterwards, it is proper now to proceed to them, and as we have already submitted the claims of the United States, for injuries arising from the suppression of the right of deposit at New Orleans, and as to boundaries, with our opinions thereon, and the wish of our government that the same should be amicably adjusted, we take the liberty to request that your excellency will have the goodness to state to us, what are the views of his majesty's government on these points, particularly as to the eastern and western limits of Louisiana, and how far his majesty is content to cede all his claim to the territory lying eastward of the Mississippi; whether he is willing to adopt the plan of a neutral territory, and in what extent. By being possessed of his majesty's sentiments and propositions on these points, we may be enabled to take a view of the whole subject, and see whether it is yet possible to come to some accord, by a general arrangement, which, while it keeps out of sight questions, on which unfortunately there has been so much difficulty and disagreement, may in the end do substantial justice to all parties.

Believing this to be the most effectual and speedy mode of concluding the business, we shall wait with anxiety and impatience your excellency's answer to this communication. We beg to repeat that we shall receive with consideration, and weigh with attention, whatever propositions, by his majesty's order, your excellency will do us the honor to communicate, having in view the amicable adjustment of the whole business.

We have the honor to request that your excellency will accept,  
&c.

(Signed)

CHAS. PINCKNEY,  
JAS. MONROE.

*His excellency Don Pedro Cevallos,  
First Secretary of State, &c. &c. &c.*

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No. 7.

(Translation.)

*Don Pedro Cevallos to Messrs. Pinckney and Monroe.*

GENTLEMEN,

The contents of your esteemed note of the 12th inst. in answer to mine of the 10th, have caused me some surprise, as well on account of not having found in it, as I had promised myself, that your opinions are for continuing the discussion relative to the reclamations of individuals of both nations, as of your determination to suspend the discussions, upon the matter of this subject, unless the Spanish government will make itself responsible for the losses occasioned by French privateers. It is my opinion, that as they are two species of reclamation so different in their nature, they can easily be divided into two, and that after the convention upon the first point is ratified, the discussions upon the second can take place without inconvenience; and I am persuaded, that in justice to the individuals of both nations who have received reciprocal injuries during the last war, we ought to terminate and satisfy, as soon as possible, those reclamations on which both governments are agreed, without prejudice to, or discontinuing the examination of, the other points.

It appears, however, that your excellencies wish to leave this point unsettled; and moreover, refuse to enter into ulterior discussions on the point of indemnifications for losses occasioned by French privateers. In this state of the affair, and notwithstanding the manner in which your excellencies have chosen to proceed, I cannot but repeat to you, what the accredited honor of my government required, to wit: that his majesty is now, and ever will be, disposed to do justice to the citizens of the United, injured by Spanish subjects, during the last war, and to conclude and ratify any convention relative there-

to. But as it relates to injuries occasioned by French privateers, on the coast and in the ports of Spain, his majesty thinks he cannot accede, in this point, to the pretensions of the United States, because he believes that he has demonstrated *in the most convincing and evident manner*, that Spain is not responsible for such indemnifications.

Although in my letters to Mr. Pinckney of the 23d August, and 5th October, 1803, and in the reply of the lawyers of Philadelphia and New York upon this point, of which I enclosed to you copies in my note of the 10th inst. it is clearly demonstrated, that the Spanish government is not responsible for such indemnifications, I had, nevertheless, determined, that when (in the order proposed) we should have arrived at this second point of the pretensions of your government, to have entered further into the discussion of this subject, and to have extended my observations thereon, so as to demonstrate the solid reasons by which the Spanish government could refute such pretensions. But as your excellencies believe that it is not necessary, or that it is incompatible with your instructions, to lose your time in such discussions, I do not wish to molest your attention, and only again refer you to the letters before mentioned, and also to the reply of the American lawyers. But, your excellencies will permit me to make known to you, how for the French government is persuaded of the unfounded right which the American government has to reclaim any thing from Spain for damages occasioned by French privateers within the jurisdiction of Spain, and of the surprise which the notice of such a demand from the United States has occasioned to France; for this purpose, I shall copy, for the information of your excellencies, the expressions made use of in the latter part of a note, under date of the 27th July, 1804, written by the French minister of foreign affairs, to the ambassador of his catholic majesty at that court.

The French government erroneously believed that Spain had gone so far in her condescensions to the United States, as to make herself responsible for the said indemnifications, and in consequence, the French ministers of foreign affairs explained himself in the following manner: "And certainly if I had been informed that the ministers of his catholic majesty had carried their condescensions towards the government of the United States so far, as to engage Spain to be responsible to it for the indemnities for pretended violations made by France, I should most assuredly have received from my government an order to manifest the discontent which France would have experienced *by a condescension so improper*; a discontent that would have been more strongly expressed towards the government of the United States, than towards Spain; besides, the explanations which have already been given to your court on this subject, (alluding to the communication of the ambassador Bonaparte,) and those which I have authorized to be again made to the government of the United States, by the charge d'affaires of his imperial majesty ought to leave the presumption that from the opinion which his majesty has adopted on this

question, *that as it has already been the object of a long negotiation, and of A FORMAL CONVENTION BETWEEN FRANCE AND THE UNITED STATES, IT CANNOT* again become the subject of a new discussion."

The expressions of the French minister are clear and pointed, and pourtray in a convincing manner, not only that France has satisfied the United States for the damages which they pretend to claim from Spain, but also, the just surprise which has been caused to his government, by the notice of such pretensions on the part of the United States, pretensions which are directed to obtain a double indemnification for one and the same debt.

Under this supposition, and continuing the order we proposed, to fix, in the first place, the rights of each nation, upon each one of the points in controversy, I will proceed to that of indemnifications, which your excellencies reclaim for the suspension of the rights of deposite at New Orleans. To determine whether Spain is, or is not, responsible for the damages which your excellencies suppose to have been sustained by the citizens of the United States by the suppression of the deposite at New Orleans, in consequence of the edict of the intendant of that city, it is necessary to examine what are those damages, and from whence they have arisen. The edict of the intendant of New Orleans, suspending the deposite of American produce in that city, did not interrupt, nor was it the intention to interrupt the free navigation of the Mississippi, consequently, these pretended injuries are reduced to this small point, that, for a short time, the vessels loaded in the stream, instead of taking in their cargoes at the wharves: this obstruction will appear still less, when we consider, that during the great part of the time that the deposite was suspended, it was in the middle of winter, when the exportation of produce from the western parts of the United States, by the Mississippi, is very inconsiderable. If the erroneous opinions which were formed in the United States upon the occurrences at New Orleans; if the complaints published in the papers of your country, as false as they were repeated, that the navigation of the Mississippi was interrupted; if the virulent writings by which the public mind was heated, and which led to compromise the American government, and tarnish the good name of that of Spain, were causes that the inhabitants of the western territory of the United States could not form *a correct idea of what passed at New Orleans*, and if in this uncertainty they were disappointed in the extraction of their produce, or suffered other inconveniences, they ought to attribute the same to internal causes, which originated in their own country, such as the writings before-mentioned, filled with inflammatory falsehoods, the violence of enthusiastic partizans, and other occurrences, which, on those occasions served to conceal the truth. The government of Spain, so far from being responsible for the prejudices occasioned by these errors and erroneous ideas, ought, in justice, to complain of the irregular conduct pursued by various writers and other individuals of the United States, which was adapted to exasperate, and mislead the public.

opinion, and went to divulge sentiments the most ignominious, and absurdities the most false, against the government of his majesty, and his accredited good faith.

Estimate the damages which may have arisen to the citizens of the United States, by their erroneous conception of what took place at New Orleans, and they will be found to be no other than the trifling inconvenience, before mentioned, of their ships loading in a situation not so commodious, an inconvenience for which the government of Spain is not responsible, (neither ought to be.) and which does not, in any manner, merit to be mentioned; more especially when it is considered, that those who experienced it, had been enjoying the rights of this deposite, four years more than was stipulated for in the treaty; and this, notwithstanding the great prejudice it occasioned to his majesty's revenue, by making New Orleans the centre of a most scandalous contraband trade; the profits of which, it is not improbable, but that some of those individuals have, in part, received, who now suppose themselves injured by said trifling inconvenience.

After four years more than the treaty expressed, to wit: three years, making in all seven years, the intendant thought that it was his duty, no longer to permit a deposite, which gave an opportunity for carrying on a fraudulent commerce, prejudicial to the interests of his majesty, for which he was accountable; he thought it was necessary that New Orleans should no longer be the place of deposite, on account of those inconveniences, and in consequence, prohibited the same.

Before proceeding to such a determination, the intendant ought to have asked instructions from his government, but, perhaps he thought he might be compromised by delaying this measure. His majesty, as soon as he was informed of the edict prohibiting the deposite, was pleased to revoke it, wishing thereby to give another testimony of his friendship for the United States. What, in strict justice, was the deposite at New Orleans? A generous and gratuitous concession of the king, my master, for three years. It is true, that his majesty agreed, in the 22d article of the treaty, to continue the favor of the deposite, if it should be found that no inconvenience resulted therefrom; and of this, no person was a better judge than his majesty, and his agents in that colony. If the United States desired, after the expiration of three years, to continue the deposite at New Orleans in a less precarious manner, or to have obtained another place for the deposite, they ought to have solicited the same; for it is more natural that those who aspire to a favor, should solicit it, than that those who have the possession of the same, should propose the cession, or continuance of it.

By this, it is not intended to support the edict of the intendant; his majesty has disapproved that edict, giving thereby, a proof of his friendship for the United States. However, this subject ought not to be treated on, in the light of exacting indemnifications resulting from it, but should be examined, to see, if in strict justice, the inten-

dant or the Spanish government, could, or could not, prohibit the deposite at New Orleans, four years more than the three stipulated in the treaty having expired, and, during which time, the royal treasury experienced the most serious prejudice. Most certainly the intendant had a right to prohibit the deposite; and consequently the government of Spain cannot be responsible in this point; and this reflection acquires a double weight, if we consider the trifling inconvenience occasioned by the true effect of the said edict, of its short duration, and, on the other hand, the serious damages which the king's revenue has experienced, by the continuance of the deposite for four years over and above the term stipulated in the treaty.

I think your excellencies will be convinced of the force of these arguments, and it is to be desired, that in consequence of what I have represented to your excellencies, and to Mr. Pinckney in particular, upon the various points of indemnifications reclaimed by your government, we may now be of the same opinion, and proceed to fix the rights of each nation on the other question relative to the limits of Louisiana, which is in its nature, different; because, to leave the first points in dispute undecided on, and even without discussing their merits, cannot but augment the confusion of the business, for it is very difficult to settle, in an amicable manner, the whole of the points in dispute, there being an essential difference of opinion on some parts of them.

I am also disposed to enter into discussion upon the limits of Louisiana; but, in the manner proposed by your excellencies, and adopted by me, in my note of the 31st ultimo, to wit: to fix in the first place the rights of each country, and then proceed to such negotiations as may be convenient to both nations.

With demonstrations of my most distinguished consideration, I renew to your excellencies my desire of serving you, and ask of God that he may preserve your lives many years.

(Signed)

PEDRO CEVALLOS.

*Messrs. Pinckney & Monroe.*

*Aranjuez, 16th February, 1805.*

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No. 8.

*Messrs. Pinckney and Monroe to Don Pedro Cevallos.*

*Aranjuez, February 18, 1805.*

Mr. Pinckney and Mr. Monroe have the honor to present their compliments to his excellency Don Pedro Cevallos, and request that

he will be so good as to honor them, to morrow, with a conference, or at such other time as may be more agreeable to him. They think proper to ask this conference, in consequence of the note of his excellency of the 16th instant, received this morning, which appeared calculated to put a prompt end to the negotiation, and that not in an amicable manner. They are desirous of obtaining it before they give an answer to that note, in the manner which their recent instructions make necessary, to see if it is yet possible to arrange amicably the differences which subsist between the two countries.



## No. 9.

(Translation.)

*Don Pedro Cevallos to Messrs. Pinckney and Monroe,**February 24, 1805.***GENTLEMEN,**

In my note of the 16th instant, I informed your excellencies that after having examined the points relative to the indemnifications claimed by the United States, I should be equally disposed to enter into discussions upon the limits of Louisiana. In this mode of proceeding I follow the plan laid down in your excellency's first note, to wit: first to fix the rights of each nation, and then proceed to such negotiations as may be proper for both.

On my part, I continue to follow this plan; a plan which is so conformable to the wishes of both governments, and so well adapted to the purpose of terminating amicably their differences. We will now begin the examination of the limits of Louisiana, whose boundaries, by their nature, are divided into parts essentially distinct, and for this reason we will examine them separately. They are—the limits of Louisiana, on the east, or side of the Floridas, and its boundary on the side of the interior provinces of New Mexico. The first shall be the object of this letter.

If the declaration of the act of Congress, of the 24th February, of the last year, had not anticipated the declaration of the pretensions of the United States, to extend the limits of Louisiana, on the east, as far as the river Perdido, including within them the greater part of West Florida, I should have been surprised to have seen this pretension manifested in the first note of your excellencies. It appears as if the title alone of the treaty, by which his majesty *retroceded* Louisi-

ana to France, and to whose title the United States have succeeded, was sufficient to banish even the most distant idea, that his majesty had, by it, ceased to be the proprietor of West Florida, a province which Spain never received from France; for the possession of which she was only indebted to the valor of her arms, many years before the acquisition of Louisiana; and never having received it from France, it could not be included in a treaty founded entirely on the principle of *retrocession*. But, as notwithstanding this reflection, so obvious and clear, the United States pretend to stretch the limits of Louisiana to the Rio Perdido, I find myself under the necessity to manifest more fully the solid and unshaken principles by which the king, my master, founds his right to the possession of the province of West Florida.

By the treaty of sale of Louisiana, signed at Paris, 30th April, 1803, the United States have acquired the right which France held in virtue of the *retrocession* of that province, made to her by his catholic majesty, at St. Ildefonso, 1st October, 1800. The stipulation, which ought to serve to found the pretensions of the United States, cannot be any other than the 3d article of the treaty of retrocession, which is in these terms. (See the 3d article of said treaty.)

The first thing which calls our attention in explaining the said article, is the expression *retrocede*, and which also serves to denominate the treaty of St. Ildefonso, called the treaty of *retrocession*. The sense of this expression is obvious; it cannot be misinterpreted or confounded. Its meaning is evidently this: *that his catholic majesty returns to France the territory which he had received from her*. Now let us examine if France put Spain into possession of the territory which occasions the present discussion. It is without a doubt, that by the treaty of 1763, it was agreed that the separation between France and England, of their possessions in that quarter, should be by a line through the middle of the rivers Mississippi and Iberville, and the lakes Maurepas and Pontchartrain to the sea; consequently, France ceded to England the river and port of Mobile, as well as all her other possessions on the east of the Mississippi, the island and city of New Orleans excepted. From that time this territory formed a part of the *possessions of the English*, under the name of West Florida, and France lost all claim and title to it. Thus it became an *English possession*, and during the war of 1779, Spain conquered from England all that the latter possessed, by the title of West Florida; and in the definitive treaty of 1783, England ceded to Spain, under a guarantee, both Floridas. It is then seen, by this plain and simple exposition of facts, that the title by which Spain holds possession of the territory, on the east of the Mississippi, called West Florida, was acquired to her by the right of conquest, at the expense of her treasures, and the blood of her soldiers, and also by the cession made by England, under the treaty of 1783. From that time, the title of Spain to the possession of that territory, is entirely *independent* of France, and of the cession of Louisiana made by her; and, conse-



quently, Spain could not give back to France what she had not received from her. We will continue the discussion on the 3d article of the treaty of St. Ildefonso.

In the first place, it is said that his majesty retrocedes Louisiana *with the same extent of territory which it now has in the hands of Spain*. This expression confirms, most explicitly, the right which Spain preserves over the said territory, to the east of the Mississippi; because it is well known that Spain possesses West Florida, *not as Louisiana, but as Florida*. This circumstance, so notorious, is confirmed by the title of the governors of the Havanna, who, in their characters of captain generals, have always governed under the title of *Captain Generals of the Two Floridas*; and by all the most authentic public acts, which have passed since his majesty has been in possession of said territory, this title has been preserved. It will be sufficient to mention the treaty concluded between his catholic majesty and the United States, in 1795, in the 2d article of which we read the following conclusive words: "That the southern limits of the United States, which separate them from *the Spanish colonies of East and West Florida, &c.*" It is then proved, in the most authentic manner, the separation of West Florida from Louisiana, and their different appellations; and it is a thing generally understood that names of countries, bartered, ceded, or retroceded, by a treaty, should be considered according to the general acceptation existing at the time of making the treaty. It is clear that if in that of St. Ildefonso, it had been wished to include West Florida, it would have been expressly mentioned by the name which authenticates it, and under which it is generally known; for, it would be ridiculous to have given the name of Louisiana to that territory, because it had once formed a part of that province; as much so as it would be at present to call the state of Ohio, Louisiana. Consequently, no doubt remains that, as his majesty was in possession of the said territory, under the name and quality of West Florida, it could not be included in Louisiana, *because it was in the hands of Spain, on the 1st October, 1800*, the epoch of the treaty of St. Ildefonso; and because the beforementioned clause of the 3d article, in its natural and explicit sense, excludes France from a right to West Florida.

The 2d clause or expression of the same article, *and which it had when France possessed it*, alludes only to the manner in which France possessed it in 1763, when she delivered it to Spain; for if any other sense is given to it, that expression cannot be consistent with the anterior, which says, *with the same extent which it now has in the hands of Spain*; for if, in the second clause, a *greater extent* should be given to Louisiana, than that which it had in the hands of Spain, how could it be with the *SAME extent* which it had in the hands of Spain? It is repugnant to common sense, that the delivery had to be with the *same extent* and with *more extent*; it being with *more*, it could not be with the *same*. It is then clear, that the obvious sense of both clauses together, and the only one which is not absurd and contradictory, is the

following: that Louisiana was retroceded with the same extent it had in the hands of Spain in 1800, and that which it had when France possessed it and gave it up to Spain. The expression, *when France possessed it*, not making a fixed time, it is clear, that it ought to be determined by the clauses of the same treaty, and interpreted in terms which will not give an absurd sense, or contradict the other expressions of the same article. Since, if we should admit the expression *when France possessed it* in all its latitude, it would result, that Spain had obligated herself by the 3d article, to give France a part of the state of Kentucky, and all the state of Ohio and territory of Indiana, and that France should hold a right by the treaty of St. Ildefonso, to resell said states as a part of Louisiana *when France possessed it*, and also to prohibit the navigation and the deposite to the Americans, because that France had to receive Louisiana as *she possessed it*; absurd reasoning, which does not merit to be refuted, and which arises in consequence of the undefined latitude which it is pretended to give *when France possessed it*. It is a principle incontrovertible of the law of nations, that treaties should not receive an odious or absurd interpretation, especially when they admit a clear and simple one. It would be both odious and absurd, to suppose that Spain had ceded Louisiana to France, with all the extent with which she had possessed it at an epoch anterior to the treaty of 1763, for it would thence result, that she had engaged to give to France part of the United States, as before mentioned, and it would be equally absurd on the part of France, because she abandoned, by the treaty of 1763, all her rights and pretensions to the country east of the Mississippi, to Great Britain; and by her treaty of 1778, with the United States, she was bound in such a manner, that she could not acquire a territory to the east of the Mississippi, without the consent of the United States, and only by that of conquest. At the same time, it would do very little honor to the United States to maintain an interpretation, the consequence of which, would make it appear, that that part of the United States formed by the Ohio and a part of Kentucky and Tennessee, might be comprehended, and become the object of stipulations and cessions between two foreign powers, such as France and Spain, who have no right to meddle with them.

The 3d clause of the 3d article of the treaty of St. Ildefonso, is still more decisive, and offers other arguments in favor of Spain, since it says, *and such as it ought to be, according to subsequent treaties between Spain and other powers*. The treaties that are here indicated, are not, or can be, other than those of 1783, between Spain and England, and of 1795, between Spain and the United States. By the first, his majesty acquired the territory east of the Mississippi, under the name of West Florida, and consequently, to be *as it ought to be since the treaty of 1783*, is with the exclusion of a territory acquired at that period, and with a name so different. By the 2d, his majesty permitted the deposite, and fixed the limits between Louisiana, the Floridas, and the United States; to be *as they ought to be after the*

*treaty of 1795*, is with the exclusion of France to the rights acquired by the United States in this treaty. And thus, as the treaty of St. Ildefonso could not affect the rights which the United States acquired by that of 1795, so neither did it affect, or could it affect, the right acquired by his catholic majesty, by the treaty of 1783, with England.

It would be unnecessary to accumulate more proofs in a case so clear in its nature, but I cannot but mention to your excellencies, in support of the unquestionable right which Spain has to the territory in question, the respectable and undeniable opinion of the celebrated geographer of the United States, Mr. Ellicot, whose knowledge and talents occasioned his being named by the government of the United States, to run the line of division between the said states and the Spanish provinces on the south of them, according to the treaty of 1795. This person, who, perhaps, has more knowledge of what relates to the territory in question, than any other, in the preface of his work, published in 1803. under the title of the "*Journal of Andrew Ellicott, late commissioner in behalf of the United States, &c. &c.*" speaking of the sale of Louisiana made by France, he says, under date of "Lancaster, 22d July, 1803," "It does not appear by the cession of Louisiana to the United States, we obtain the whole of both sides of the Mississippi, for by consulting number 5, of the maps, it will be seen that the island of New Orleans, which lies on the east side of the Mississippi, *only extends* north to Manchac; *from thence*, northerly along the east side of the river, to the southern boundary of the United States, is *still held* by his catholic majesty, as a part of West Florida." And lower down, he says "the important and safe harbors in both the Floridas, *still remain* in the possession of his catholic majesty." These expressions so notable, corroborate and confirm, in the most positive manner, the incontestable right of his catholic majesty to all the territories which are on the east of the Mississippi, under the line of the 31st degree, excepting the island of New Orleans.

Besides what has been said, it cannot be doubted that the treaty of retrocession of 1800, was a contract between Spain and France, and consequently, it was for France to have represented, in case she had not received all the territories expressed in that stipulation. And it is certain, that the prefect Lausat, charged to carry into effect the treaty, being perfectly instructed in it, and being possessed with the intentions of his government, has expressed himself satisfied with the manner in which it was carried into effect, without his having been put into possession of the territory in question. Thus the United States, who have succeeded to the rights of France, have no motive whatever to pretend to what France has thought did not belong to her.

I could, by an accumulation of more and more proofs, establish in different ways, the incontestable rights of the king, my master, to West Florida; but it appears to me, what has already been said, is sufficient, so as not to leave a doubt in the mind of any one that will

examine the question impartially, not even in the mind of such as Ellicot, who, notwithstanding the love he bears to the government that employed him, and in whose favor he has wrought, could not do less than give that just homage to truth and justice, which they merit.

With assurances of my distinguished consideration, I remain, praying to God that he may preserve your lives many years.

(Signed)

PEDRO CEVALLOS.

To Messrs. Pinckney & Monroe,

Aranjuez, 24th February, 1805.

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No. 10.

*Messrs. Pinckney & Monroe to Don Pedro Cevallos.*

Mr. Pinckney and Mr. Monroe present their compliments to his excellency, Don Pedro Cevallos, and have the honor to enclose to him their answer to his note of the 16th, which was prepared and intended to have been sent yesterday. They avail themselves of the opportunity to acknowledge the receipt of his excellency's note of the 24th, received last night, respecting the eastern limits of Louisiana, to which they will pay immediate attention.

Aranjuez, February 26th, 1805.

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No. 11.

*From the same, to the same.*

Aranjuez, February 26th, 1805.

SIR,

We have the honor to acknowledge the receipt of your excellency's letter of the 16th instant, whose contents and tone, have equally

surprised us. We should consider ourselves failing in the respect which we owe to our government, if we did not express our sentiments on it, in both respects. In so doing it is necessary to review concisely, what has already passed between us.

Your excellency will recollect that in our interview which took place immediately after Mr. Monroe had the honor of being received by his majesty, that the objects of his mission were fully communicated, and that it was agreed that we should present to your excellency a project for the adjustment of every point, to which you were so good as to promise an early and explicit answer. In compliance with that arrangement, we did present to your excellency, on the 28th ultimo, the project which we had promised, in which we stated fully the views of our government, with its opinion of the rights of the United States on each point, which we illustrated, in those cases which had not been already exhausted, and of course, where illustration could be necessary, or was even likely to be agreeable. We had a right to expect, and we did expect, an answer equally full and explicit to every point. In this, however, we were disappointed. On the claims to indemnity for injuries, your excellency thought proper, it is true, to intimate, in respect to spoliations, that his majesty was willing to ratify the convention of August 11th, 1802, after the obstacles which occasioned its postponement should be removed; and, in respect to that arising from the suppression of the deposit at New Orleans, that Spain was not accountable for them, but without giving any reason for the assertion. On the great question of territorial rights and limits, as on the mode of providing for their security, and with it the peace and harmony of our governments, on which we did ourselves the honor to make to your excellency, what we deemed liberal and salutary propositions, we received what could not be considered as an answer, since it neither rejected our propositions, offered others, or expressed any sentiment respecting them. If it was proper to open the whole subject, as was admitted in our first interview, it was equally so to answer it. And that it was proper to do so, is not only proved by the agreement referred to, but by the situation of the two countries at the present time. The several points are, it is true, in their nature distinct, yet it is obvious, that the whole must be brought into view, and settled together. We do not perceive the means, nor has your excellency suggested them, of adjusting a part, and leaving the others unfinished.

Although we could not but be hurt at receiving an answer so vague and unsatisfactory to our letter, yet we deemed it inconsistent with the respect we owed to both governments, to your excellency, and to ourselves, as with the spirit of conciliation which we wish to preserve through the negotiation, to express that sentiment. We did more; we met the invitation which your excellency seemed to give us, without, however, furnishing the example, by proceeding to explain further, the views of our government, and illustrate its rights on the two points, on which you had given any opinion. The claims

to compensation for injuries arising from spoliations on our commerce, and the suppression of the right of deposite at New Orleans; had long been before our governments, and their merits were well understood. That for spoliations more especially, had been so fully and amply discussed, both here and in the United States, as to leave no doubt that such discussion was not necessary to enable either party to make up its mind on it. By entering into it, therefore, we gave your excellency a convincing proof of our desire to accommodate with your wishes, in the hope that it would produce on your part, a correspondent result. We flattered ourselves, that, as the whole subject was again presented to you, in all its points, with the explanation which you had invited on the two first, we should have received a full answer from his majesty's government on each, and of course on the whole. In this, however, we were again disappointed. We received, in substance, only the same proposition which had been made to us before, which we had, as we presumed, clearly proved to be incompatible with the rights of the United States, and the principles of justice, and which, as we had taken the liberty to inform your excellency, the repeated and recent orders of our government prohibited us from accepting. Under these circumstances, we considered it our duty to acquaint your excellency respectfully, that we deemed it useless and improper to prolong the discussion on that point; at the same time requesting you to be so good as to communicate the sentiments and propositions of his majesty's government on the whole subject, that we might see whether it would be possible, while we avoided discussions of an irritating tendency, to adopt some plan, which, by a general arrangement, might provide for this, as well as the other objects, and thereby render justice in the most acceptable manner to all parties. To this proposal, the most respectful and friendly that we could make, one which is warranted by the uniform practice, in similar transactions and cases, of all powers, especially the most friendly to each other, we received a letter which is addressed in a very different spirit. By it we are charged with refusing to discuss points, which we had already discussed, and on which we had given to your excellency our ulterior opinion; our government is charged with the dishonorable attempt to obtain a double indemnity for the same object; many of our citizens are denounced as unprincipled contrabandists; and others, if not the whole nation, as enthusiastic partizans, calumniators, and disfigurers of truth; for in respect to the suppression of the deposite at New Orleans, all America had but one opinion, and spoke with one voice; in the article of the press, the freedom of our internal institutions, which all nations have a right to regulate, and do regulate, as suits themselves, is attacked; the right of the intendant to suppress the deposite at New Orleans, is justified, and the right itself, though stipulated and made permanent by a solemn treaty, a stipulation which had its equivalent in the other articles of the same instrument, and was otherwise prompted by the law of nature, of reason, and the interest of Spain, is represent-

ed as a gratuitous or charitable donation to the United States, which his majesty had a right to suppress, and keep suppressed till their government should implore him to open it to them again. On this note, we think proper to observe that it was impossible for us to have received one which could have been more unexpected. It was the more so, because in all our communications we had been studious, in obedience to the orders of our government, orders which we executed with pleasure, to manifest its high respect for his catholic majesty, and we were not conscious of having failed in that which we entertained for your excellency.

We forbear to make any further comment on the tone of this last note at present, because it is probable it may convey sentiments which are not entertained. We are aware, that in the zeal of an important discussion, incidents of that kind often occur, and are prompted by patriotic motives, even with those who are the most guarded. We trust that the character of the American government and people, which is well known, and we flatter ourselves, held in just estimation by other powers, will not be injured by the spirit of conciliation and moderation which animates us on this occasion. On the presumption therefore, that no premeditated outrage was intended, and with a sincere desire to adjust amicably the differences subsisting between our countries, we will proceed to answer the several objections urged in your excellency's last note, to what we consider to be the just claims of our government.

Your excellency insists, that his catholic majesty is not answerable for the spoliations that were committed on the commerce of the United States, within the jurisdiction of Spain, in the course of the last war, by French cruisers and tribunals; and you urge in support of the doctrine, 1st, that those claims were satisfied by the treaties which have taken place between the United States and France; 2d, that Spain was not in a situation to prevent those aggressions on our commerce. We will examine with candor both these pretensions, which we are persuaded, it will be easy to show, are unfounded. Two treaties have latterly taken place between the United States & France; the first, on the 30th of September, 1800; the second on the 30th of April, 1803. Permit us to ask, by which of these was such extinguishment made? If by the first, it is not likely that the subject would have been thought of in the second; if the second is relied on, it is an admission, that it was not done by the first. Your excellency seems disposed to rely on both, which cannot be considered otherwise, than as a proof that neither alone had done it. It is equally obvious, that it was not done by both together, since, whether we examine them separately or together, they expressly preclude the idea.

By article 2d of the convention of 1800, between the United States and France, it is agreed, for certain considerations therein specified, to postpone their respective claims to indemnities to a more convenient time, and by the ratification of that convention, those claims were relinquished for ever, on both sides.

By article 5th of the same convention, it is agreed, that certain specified claims or debts should be recoverable in the same manner, as if no misunderstanding had taken place between the parties.

By articles 1st and 2d of the second convention, entered into on the 30th of April, 1803, provision is made for the payment of the debts which were comprised under the 2d and 5th articles of that of 1800, whose amount, it was expressly stipulated, should not exceed twenty millions of livres.

These are the only articles in those conventions, which have any reference to the point in question. If the claim of the United States on Spain, for French spoliations and condemnations within her jurisdiction, was satisfied by the treaties and conventions between the United States and France, it was by one of these articles. We will examine first that pretension, as founded on the second article of the convention of 1800. On a view of that article, and indeed of the whole instrument, we find that it regulates only questions and interests that were depending between the United States and France. A misunderstanding had unhappily taken place between those powers, and it was the object of this convention to adjust it. Not the most distant allusion is made, in any article of the convention, to Spain or her concerns. Had Spain then been a party to that misunderstanding, she could not have been benefitted by that convention. The reason is much stronger why she could not, as she was not a party to it, since there was no variance, and there certainly was none between the United States and Spain, it is more evident, that it could not have been in the contemplation of the parties to adjust what did not exist. It may be added, that if it had been contemplated to release Spain from any obligation which she owed to the United States, from any just claim which they had on her, the release would have been complete; it would have extended to every object, especially of the same kind, and settled every ground of difference between them. The fact however, is admitted by all parties to be otherwise. It has never been contended by Spain, that the spoliations which were committed by her own people were satisfied by that convention. Hence, it is clear that Spain was not discharged from the claim of the United States for French spoliations, committed within her limits, by the second article of the convention of 1800. It is equally clear, that she was not discharged by the 1st and 2d articles of the convention of 1803. It is evident, on a slight view of these last articles, and indeed of the whole instrument, that they had no other debts in contemplation, but those which were made recoverable by the convention of 1800: that in truth, the convention of 1803, did no more than provide funds for the payment of the debts that were due under that of 1800. Thus the claim of the United States on Spain for these spoliations, was not discharged by this last convention. Other circumstances prove clearly, not only that this claim was not discharged, but that a provision or discharge of it by those conventions, was not even contemplated by the parties to them. It is very well known, that the government of the



United States never made a demand on that of France for the payment of these spoliations; that it always claimed the payment of Spain and her only, considering her only as responsible for them. It is not presumable, that the parties should intend to provide for a claim not made. for a debt not supposed to be due. The conduct of Spain through the whole of this epoch, corresponds with that of the other powers in this respect. The minister of the United States at Madrid, pressed the government of Spain for an indemnity for that and other claims. Had it been contemplated by Spain to obtain her discharge through the medium of France, her ambassador at Paris would have been seen in both those negotiations, especially that of 1800, and had he succeeded, a provision to that effect, in explicit terms, would have been introduced into that convention. But nothing of this kind took place. Indeed, the success of such an attempt was so improbable, that it is not presumable that the idea ever occurred. With the claims that where in the contemplation of the parties, and for which France was truly answerable, it was difficult to accomplish an amicable adjustment of their differences. Had these been swelled by the addition of those on Spain, it is probable that the negotiation would have proved abortive. It was not till some years afterwards, that this pretension on the part of Spain was heard of; and then it was founded on a pretext as singular as it was unexpected, that of her being released by a treaty between the United States and another power, in which she was not even mentioned. With respect to these claims having been discharged by the convention of 1803, it has already been shown, that that convention could not, by any possible construction, be considered as having any reference to the subject; it may be added, that the funds provided by it, were not only intended for other objects expressly stipulated, but that there is reason to think they are not commensurate with those objects.

As to the pretension that Spain was released from this claim, by the release made to France of other claims of a similar nature, it is easy to prove, that it has not the slightest foundation. It has already been shown, that France was not released from this claim, because it was never made on her. We shall proceed to show, that it was properly made on Spain, and that she was and is still answerable for it.

It will not be controverted, that it is the duty of every independent state, to observe that the citizens or subjects of every other independent state, are secured in their intercourse with it, in the enjoyment of all the rights and privileges to which they are entitled by the law of nations, and treaties with such power. This principle forms the basis on which the whole system of public law rests. It is the standard by which every question between independent powers must be examined, and their respective rights in all cases settled.

It is equally true, that for every violation of those rights on the citizens or subjects of one independent state within the jurisdiction of another, the government of the latter is responsible, whether the same

be committed by its own people, or those of another power. The reason of this rule is obvious. Every government being sovereign within its own limits, the subjects of every foreign power are regarded there for the time, as its own subject, and as such it is responsible for their conduct. While such government retains its independence, it cannot divest itself of this duty, or the obligation to discharge it. The principle is the same, whether such acts be performed by the private individuals of a foreign power, or its public agents. In the latter case, indeed, the claim to an indemnity by the party injured, on the government under whose jurisdiction it was received, is stronger, since being done under color of public authority, and especially if persevered in, they become the acts of the government itself. These principles are too well established by writers on the law of nations, to require further illustration.

Hence, it appears clearly, that Spain was answerable for French spoliations committed under her jurisdiction, in the same manner as if they were committed by her own people. To her then, the American government was bound to look for reparation. Whether France was eventually liable or not, it is not material to enquire. Where was the injury rendered? What government had cognizance of the case? Whose laws were violated by the proceeding? or by whose laws was the injury permitted, or what amounts to the same thing, suffered? By that government is the reparation due, and by it ought it to be made. If France has actually paid any of those claims, such payment will of course, be considered as a discharge. That the suffering individuals may have applied elsewhere and every where to save themselves from ruin, or rather retrieve themselves from it, is possible; but neither will the course which their distresses may have compelled them to pursue, nor will the fortune of some particular applicants, in case any have succeeded, affect the merits of the present question. It is known, that the sentiments and conduct of the American government have invariably been the same on it. It has thought, in every stage, that Spain was responsible for those spoliations, and it has uniformly sought the indemnification of her, and of her alone.

If France was responsible for those claims, the injuries having proceeded from her officers and agents, it was only eventually, in case satisfaction was not obtained of Spain; for, as already shown, having been committed under the jurisdiction of Spain, where she only had authority, the redress was strictly due by her. For injuries committed by a Spaniard to an American citizen, at Paris, we should not think of making application for redress, to the government of Spain, nor for like injuries committed at Madrid, by a Frenchman, to the government of France. The application in both cases would be to the government having jurisdiction of the territory where the offence was committed, and of course cognizance of the case; to the government whose laws were offended and who had the power of redress. If France was eventually answerable to us for those claims, which we deny, we admit that she was released from them, by the conven-

tion of 1800. But can Spain, who was answerable primarily, if not solely, to whom application had been made, to whom it was then, and has since been made, claim an exemption from them, under a treaty to which she was not a party, and in which her name was not even mentioned? We are of opinion, by the uniform, and well established doctrine of the law of nations, by the clearest principles of justice, that she cannot.

With respect to the opinions which you have been pleased to communicate to us, of the minister of foreign relations and the late ambassador of France, on this subject, we have received them with the consideration which is due to the very respectable authority from which they emanate. We are not willing to believe that they oppugn the principle above laid down, or apply to those cases which are justly chargeable on Spain, because our government, for the reasons above stated, and by the clearest conviction, thinks otherwise. On all treaties between independent powers, each party has a right to form its own opinion. Every nation is the guardian of its own honor and rights, and the emperor is too sensible of what is due to his own glory, and entertains too high a respect for the United States, to wish them to abandon a just sense of what is due to their own. We do not believe that the view which our government takes of this subject, was ever presented to that of France, since we are not aware that there ever was an occasion for it. By those treaties with his imperial majesty, all differences between the United States and France, were happily terminated, and the relations of the two countries placed on a footing of permanent friendship. In all questions growing out of them, in which France and the United States are interested, their governments are perfectly of accord. We should regret if they were not so in the present case, as indeed in all others between the United States and Spain.

As to the doctrine held by certain respectable professional characters in the United States, whose opinions have been asked and given in this case, that France and Spain were associate parties in the injuries complained of, the former as principal, and the latter as accessory, we are sorry to be called on to make any remark on it. Delicacy for those gentlemen, makes this an unpleasant duty. From that motive we will confine what we have to say to the doctrine itself. We will admit that we have not made up our minds to a censure of their conduct, since if such an interference is justifiable under any government, it certainly is so under that where it is their happy destiny to dwell. In noticing their opinion, we have to observe that they have evidently mistaken the case, by applying to nations a maxim of local municipal law, which is applicable only to individuals. Among nations it is believed that there is no such thing as principal and accessory. All are principals, and are to be regarded as such, in all their transactions. In case of a war to which there are several parties, allies on each side, nothing is more common than for one to make its peace, and withdraw from it. It was never contended that

an adjustment made by one party, in such a case, or any other, settled the differences of the other party. The doctrine of principal and accessory, of a release or discharge to one power, by virtue of an accommodation with another, was never heard of among them. Indeed it would be strange, if any one nation should undertake to adjust the concerns of another, without its authority. It would be more so, if any adjustment between two parties, should be so construed as to produce an important benefit to a third, not only without its authority, but the knowledge of any one of them. Suppose that an adjustment made by one of the parties for a third one, should be highly detrimental to it, would such party be bound by it? Had France, for example, stipulated that Spain should pay for all those spoliations, and a great proportion of her own, would Spain have allowed her right to do so? Ought she then, or has she a right, to claim any advantage from a transaction, to which she was not a party, by which she could not be bound, and which in its nature, could not be reciprocal?

With respect to the plea on which the opinion of those gentlemen is in part founded, that Spain was not in a situation to prevent those violations of her territory by France, and is, therefore, not accountable to the United States for the injuries resulting from them, we find ourselves precluded, by the high respect which we entertain for his catholic majesty, from dwelling on it. We shall be permitted, however, to observe, that we utterly deny the fact. Spain was never placed in that dilemma. Having, from very remote antiquity, held a very distinguished rank among the powers of Europe, she still enjoys it. In her late war with France, nothing occurred which placed her in the condition of a conquered nation. Her troops behaved with gallantry in the field, and her government obtained an equal, and honorable peace. If then she did not prevent those violations of her territory, it was not because she was not able to do it, but because they were sanctioned by some treaty which secured her, in other respects, an equivalent; or that she chose to permit them, from some motive of policy at the time; in either of which cases, she is responsible to the United States for the same.

We have thus answered fully, the arguments urged by your excellency, against the claim of the United States on Spain, to an indemnity for the spoliations on their commerce, by the cruizers and tribunals of France, within the territory of Spain, in the course of the last war, and we are persuaded, shown in the clearest manner, that that claim is well founded. We should have gone more fully into this point in our former notes, had we not believed that it was already fully illustrated by the communications which had taken place on it, between our governments, in the United States and here, to which we beg leave to refer, a note of which letter is here annexed. We have, however, been happy, at your excellency's suggestion, to review the subject, being very solicitous to prove, on all occasions, that our government makes no claim, which is not founded in justice, and

being likewise so, to avail ourselves of every suitable opportunity, to give new proofs of its respect for, and desire to preserve the most friendly relations with his catholic majesty.

On the point respecting the suppression of the deposite at New Orleans, we regret that it is altogether impossible to assent to the doctrine which is insisted on by your excellency. On a careful perusal of the treaty, we find in it nothing which justifies the idea, that there ever was to have been a moment of interruption in the enjoyment of that right, either at New Orleans, or at some other suitable place on the banks of the Mississippi. It is not, it is true, stipulated, that in suppressing the existing deposite, and opening another, the government of Spain should give notice of the design, and hold communication with that of the United States on the subject. On the other hand it may also be said, with equal truth, that it is not stipulated, in taking that measure, that that friendly proceeding should not be observed, but that his majesty may do it, and keep the deposite altogether suppressed, till the government of the United States should make application for the opening of it. In all such cases the policy of the measure, the object of the treaty, and the intention of the parties, are to govern in the interpretation of it; and by these it appears to us to be unquestionable, that another deposite ought to have been opened, at the moment the existing one was closed. It is on that principle, that the United States consider themselves entitled to an indemnity for the injury which was sustained by that measure. What the precise amount of that injury may be, it is not in our power to state; from what we have understood, however, it is by no means of the trifling nature your excellency seems to suppose it. We have not sought as an indemnity for it, any precise sum: We have only proposed that it should be referred to the judgment of impartial arbitrators, on such proof as might be presented before them, to estimate it; a proposition which we deemed too just and reasonable to admit of objection.

On the subject of limits, and others incident to it, having already stated to your excellency, the views of our government, we deem it necessary only to refer again to our former communications. As neighbors, desirous of living together in peace and friendship, it is certainly an object of essential importance, to adjust and arrange these very interesting points at this time, in a clear, definite and satisfactory manner. At an epoch so extraordinary, and big with such important events, it may be productive of much harm to leave any thing unfinished, and thereby exposed to casualty. In cases of unsettled boundary especially, where the pretensions of the parties differ, and those of either may be carried, under colorable pretexts, to great height, there is always danger, by delay, of their becoming the cause of serious controversies, and even of destructive wars. Aware of this danger, the President of the United States is sincerely desirous of averting the evil incident to it, while it is practicable. It is with that view that he has sought, by the present negotiation, to settle

amicably and finally, all the points depending between the two nations. The propositions which we have had the honor to make on this point, are deemed reasonable and just, and we flatter ourselves that they will be so considered by his majesty's government.

We have now the honor to submit to your excellency, again, the full view of our government, on all the points depending between the United States and Spain, and in so doing, consider it our duty to repeat what we stated in our former notes, that it is equally incompatible with justice, as it is with our instructions, to enter into any arrangement relative to claims for spoliations, which does not provide, in some equitable and satisfactory mode, for the whole. To reserve a right, in respect to those which were committed by French cruizers and tribunals, without making any provision for it, could, at this stage, be considered in no other light than an abandonment of it. We have forbore to state in detail, the extent of these injuries, comprising in the whole, 272 vessels and cargoes, or the aggravated circumstances attending many of them, which have involved in ruin many of our most respectable and wealthy citizens, because it has been our object rather to heal than to open wounds. It is well known that at the time these injuries were rendered to our citizens, there did not exist on the part of Spain, the slightest cause of complaint against the United States, whose government, peaceable and friendly, has borne them with a patience and moderation, of which history furnishes no example in equal degree. Many years have elapsed since these injuries were received, during which time, the sufferers have looked to their government for reparation without effect. Their last hope is founded on this negotiation, and great would their astonishment and disappoint be, if they were told that more than one half of them were to be abandoned. We repeat, however, what we took the liberty to state, in our letter of the 12th instant, that if it is possible, on being possessed of his majesty's sentiments and propositions on the whole subject, to provide, by a general arrangement, for this, and the other objects, in any mode consistent with our duty, which may be satisfactory to him, that we shall be happy to do it.

We beg your excellency to accept, &c.

(Signed)

CHAS. PINCKNEY.  
JAS. MONROE.

*His excellency, Don Pedro Cevallos,*

*First Secretary of State, &c. &c. &c.*

## No. 12.

*Don Pedro Cevallos to Messrs. Pinckney and Monroe.*

## GENTLEMEN,

I have received your esteemed note of the 26th instant, in which you reply to mine of the 16th; and before I make the observations necessary in answer to the same, it appears to me indispensable to satisfy, by a separate letter the complaints of your excellencies on the tone and expressions of my said note. The king, my master, being animated by the most sincere sentiments of friendship and distinguished consideration towards the United States, your excellencies will be pleased to do justice to these sentiments of his majesty, and to mine, as being persuaded that I, who have the honor to be the interpreter of them, could have had no design, nor the most remote idea, I do not say to injure, but even to be wanting in those manifestations of consideration and respect for the United States, and their government, to which they are so justly entitled. Commencing with this declaration, your excellencies will permit me to examine the different expressions of my letter of the 16th, which have given rise to your complaints. Your excellencies say, in the first place, that, on my part, I impute to you a refusal to discuss some of the controverted points. But if your excellencies will take the trouble to read my note a second time. I hope you will acknowledge that I am far from imputing any thing on that subject, and that I only wished to say on it, that while your excellencies believe it useless, or incompatible with your instructions, to continue the discussion upon the indemnifications reclaimed for injuries committed by the French privateers, as I understood by the expression of your excellencies, "*it seems useless to prolong the discussions on this point,*" I found myself obliged to treat the subject less extensively than I thought I could, not to molest your excellencies too much on it. I am far from supposing this could involve the smallest disrespect, as it is only reducing it to a difference of opinion, your excellencies believing that the point was sufficiently discussed, and I, that it wanted to be a little more so. In the second place, your excellencies show yourselves displeased, that I have expressed that the claim of your government for satisfaction for French spoliations, should go to demand two satisfactions for the same debt, which expression, your excellencies believe injurious to your government: but your excellencies will permit me to observe, that to demand two satisfactions for the same thing, would be dishonorable of the American government, knowing itself already satisfied by France, should it still demand satisfaction of Spain; but as your government does not believe itself satisfied by France, it cannot be dishonorable to pursue its demand of satisfaction of Spain,

while it continues in the belief that it has not received satisfaction of France. Spain, on her part, believes, she has shown that the United States have received satisfaction from France, and it is in this belief she may say, that the United States claim two satisfactions for the same debt; more she cannot say, nor have I said, or meant to say, that they claim it with improper designs, knowing they demand two satisfactions, or that they believe they demand more than one, in which there is nothing dishonorable, although the United States might be mistaken, as Spain believes they are, and founds her belief in reasons which I have already explained to your excellencies, and thinking on this occasion, in exact conformity with the opinion of the most enlightened jurists of your excellencies' country.

In the third place, your excellencies complain, that I have denounced in my note, many of the United States, as contrabandists; on which your excellencies will permit me to observe, that I do not find any thing of this in my letter, in positive terms, but in doubtful ones, as the expression denotes, *it will not be extraordinary*; a doubt to which the representations of those employed in the royal revenue have given rise, whose truth I do not pretend to guarantee, nor does the doubt fall upon many of the citizens of the United States, but upon some very small number of them, as they very often use much in this sense, although there have been but one or two cases. I do not see the injury that can arise to the American nation, in expressing a doubt that there may have been some individuals concerned in contraband, or giving pretexts to Spaniards to do so, nor have I either attempted to discriminate between the two.

In the fourth place, your excellencies complain, that I have said that some of the Americans, carried away by party spirit, have calumniated Spain on account of the deposite at New Orleans, and have disfigured what has happened in the capital; and your excellencies suppose that I designed likewise, in a manner, to attribute this to the American nation, the whole of whom, you say had but one opinion on the subject of the deposite. On this point I cannot do less than feel myself hurt at the construction which is given to my expressions: in my letter I cannot find a single expression which can have the most remote allusion on the subject, either to the American nation or its government: it treats only of some individuals, and so far from making the least reflection on the conduct of the American nation and its government, during the suspension of the deposite, on the contrary, I have afforded many proofs of the satisfaction the conduct of the American government has given on that occasion; notwithstanding, it is not less certain what I have said, that there were some individuals, especially some writers, who published things on that subject, injurious and calumniating to Spain, and the result of which was that some of the inhabitants of the western states, (as was not extraordinary,) not knowing the truth of facts, suspended the shipping their products to New Orleans, and suffered other injuries, not imputable to Spain. In the first days of the suspension of the depo-



site, it was published by some North American, that the navigation of the Mississippi was obstructed: this was a falsehood whose currency was injurious to the good faith of the Spanish government which had stipulated for the free navigation of the said river, and at the same time was prejudicial to the inhabitants of the western states, who, remaining in this uncertainty, did not choose to undertake a voyage of such length while there was danger of the outlet being interrupted. Afterwards they said, and it was repeated in the writings and speeches of some individuals, that the suspension of the deposite, and what they might expect respecting the navigation, flowed from France's having influenced Spain to take upon herself the odium of this measure, that France might receive Louisiana free from the obligations imposed by the treaty of 1795, than which there could be no expressions more calumniating and unjust; it being an indubitable fact that in the treaty of retrocession of Louisiana, of 1st October, 1800, his majesty had taken the most scrupulous care to secure the rights of the United States, in the clause of article 3d, which says, "telle quelle doit etre apres les traites passes subsequemment entre l'Espagne et dautres Etats." As to what respected the enthusiastic partisans of whom I spoke in my note, your excellencies will permit me to remind you that I alluded to the attempts of some of the inhabitants of the western states, who (as the public papers then announced,) showed a disposition and design to descend to Louisiana with an armed force, and without other legitimate authority, to take justice into their own hands, on which occasion there now exist in the office of the Secretary of State in the United States, the representations that his majesty's minister made to have such attempts chastised and corrected. These are the attempts to which I alluded in my note of the 16th, and on no account to the conduct of the American government and nation, which was prudent and just. But can it be denied that the consequence of these errors thus published, and which were that some or many of the peaceable inhabitants did not carry their produce to New Orleans, are not to be, nor cannot be attributed to the act of the intendant, but to the occurrence which took place in the said country? There is nothing either in my note which has reference to the liberty or otherwise of the press, nor with the institutions of the American government, which, as your excellencies well observe, every government is free to regulate as it pleases; but I only insinuated that the writings published with this motive, gave to the western inhabitants a wrong idea of what passed in New Orleans, and that this was not imputable to Spain, or to the edict of the intendant.

This and this only is all which I wished to say in my note of the 16th, in which I am extremely sensible that, contrary to my intention, your excellencies have found motives for complaint. To remove which, it appeared to me proper immediately to enter into this explanation, which although somewhat diffuse, will I hope have answered the end I intended. It appeared to me proper to

do this in a separate letter, reserving to myself to answer with all possible despatch, and brevity the other points contained in your excellencies' esteemed letter of the 16th.

In the interim I renew to your excellencies the demonstrations of my distinguished consideration and esteem. I pray God to preserve your lives many years.

(Signed)

PEDRO CEVALLOS.

*Aranjuez, February 28th, 1805.*

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No. 13.

*From the same to the same.*

*Aranjuez, 4th March, 1805.*

GENTLEMEN,

Immediately after I received your esteemed favor of the 26th past, I believed it my duty not to lose a moment in replying to the complaints you had been pleased to make on some of the expressions in my note of the 16th, it not being consistent with my sentiments to let your excellencies remain for a moment in the suspicion that I was wanting in any degree in the respect due to the United States or its government; or to persons so respectable as your excellencies, not only in your individual capacities, but as representing the government you do. I flatter myself I have removed, by my note of the 28th ultimo, all motives for those complaints, but if any doubt should still remain on that subject, I am equally ready to satisfy it, should your excellencies be pleased to express it.

This done, I proceed to examine the other points contained in your note abovementioned, of the 26th.

It is certain that in my first letter of the 31st January, I did not enter upon the points in dispute between the two governments, but it appears to me in the same note I gave the reasons of my proceedings on this occasion. The object of that note was to show to your excellencies, that to my belief it was somewhat premature to begin to examine projects of a convention upon all the points without analysing them first, and fixing the right of each country as far as possible; because, as your excellencies well know, before we can proceed to a convention upon the whole, it is necessary to know as distinctly as we can, what are the rights and obligations of his majesty and the United

**States.** This knowledge of the detail ought to be the beginning of the negotiation; because it is clear that, according to the extent which they suppose the rights or obligation of each party ought to have, so ought the convention for the whole to be the more or less enlarged. This is what I believed your excellencies wished to remark in your first note, by the following expressions: "each of the depending points between the two governments ought to be examined impartially and all motives of complaint and inquietude considered and terminated amicably, to do which it is necessary to determine the respective rights, &c." Understanding it thus in my first note, I did nothing more than enumerate the points on which it appeared to me we had to fix our respective rights, and to request your excellencies opinion as to the order in which they should be treated. In my second of the 10th ultimo, I spoke of the reclamations for injuries committed by the individuals of both nations, and told your excellencies that his majesty was disposed then to terminate this point; and at the same time spoke, but not extensively, of the damages committed by French privateers. In my third note of the 16th, not to molest your excellencies too much, I touched shortly on the same subject, and treated of the damages occasioned by the suspension of the deposite; and lastly, under date of the 24th, I commenced the examination of the limits of Louisiana, with those which relate to the eastern boundary.

In the context of all those letters together, and of that which I promise to transmit, respecting the western limits of Louisiana, I hope your excellencies will see I have not omitted entering upon all the points contained in your esteemed notes, only with the difference alluded to from the beginning, that it appeared to me most proper and clear to treat each point separately, according to its different nature.

It is true, that to the present time, I have not been able to say to your excellencies, as you wish, what is the disposition of his majesty upon the whole, but the reason is, as I have thought from the beginning, that it is not possible for his majesty to determine what part he will adopt upon the whole, without being clear what are his rights, or what his objections on each particular point. This examination being made, your excellencies ought not to doubt that his majesty will be ready to enter upon such convention as shall be judged proper to conclude the claims, and promote the interest of both parties. The king wishes to give proofs of his friendship and good neighborhood to the United States, and to fix them in the most permanent manner,

Having said this, and proceeding in the order of the notes which have passed between us, I must stop to remark a little on the reflections which your excellencies have made as to the assertion that Spain is persuaded the United States are satisfied for the damages occasioned by the French cruizers in her ports and on her coasts. Your excellencies wish to know by which of the conventions which have been made between France and the United States, Spain believes these damages have been satisfied. I answer, by that of 1800, and

by the context of its ratification. In speaking of the 2d convention, it is only as your excellencies yourselves say on this subject, an explanation or compliance with the first, or to go to the point at once, one of the reasons which convinces Spain and induces her to believe she is not responsible for the damages occasioned by the French cruizers in her ports and on her coasts, is that it is notorious that the United States have agreed with France to consider themselves as satisfied for all the damages they have received from her, (France) during the last war.

It is true, in the convention, no mention was made of Spain; because, in the manner in which they treated, it was absolutely superfluous to do so, and the high contracting parties considering it so, omitted, without doubt, to mention that which by the nature of things, could not be less than a necessary and inevitable consequence of what they stipulated. Nothing is more common in law, than that an act between two parties may be, by its nature, and even independent of the will of the contracting parties, general to a third: For example; if a creditor releases a debtor what he owes, this act between the two, is general to the security of the debtor, who, by the nature of things, remains released, although no mention is made of him, and what is more, although both creditor and debtor have wished that he should not be released, because, by the nature of things, it is impossible the security should remain, when the principal obligation has disappeared. In the same point of view ought to be considered the obligation of Spain, if ever there did exist any from her to the United States, with respect to the damages committed within her jurisdiction by French privateers. France was the offender, and of consequence, the obligation and the act or agreement which released France, extinguished the obligation which was one and indivisible, as justly observe the learned gentlemen of Philadelphia. The release of this claim supposes the same thing as the receipt of satisfaction, and no other can be demanded without requiring two satisfactions for the same offence, which are the identical words of the said learned gentlemen (from whose answer I took them, when I inserted them in my note of the 16th;) and as the same gentlemen observe, if the power A, (that is Spain) was yet responsible, and paid to B, (the United States) Spain could then apply to France to be reimbursed, as she was the offender, and France would not gain any thing by the release of the United States, which would become by this indirect mode null; and as it is evident every legitimate act ought to carry with itself every thing that is necessary for its validity, it is undoubted that the convention between the United States and France, ought to be general to Spain, as much as is necessary for its validity, that is, absolving her from her responsibility, if she had any; because, on the contrary, by the United States reclaiming against Spain, and Spain against France, the latter would, by this indirect mode, have at last to pay for the damages occasioned by her privateers.

Your excellencies knowing well the force of this reasoning, attempt now to establish that Spain is the principal obliged for the said damages; that her obligation is not accessory, as presume the learned gentlemen of Philadelphia, who, you say, have confounded the case, applying the maxims of municipal law to nations, among which there is no such thing known as principal and accessory, and finally, your excellencies deny that France can be responsible for the damages committed by her privateers on the coasts and in the ports of Spain, and admit that at the most it can only be eventually so. But I cannot, for my part, conceive how these assertions can be supported. In the first place, I am persuaded that the principles of universal justice on which those learned gentlemen have founded their opinion, is as applicable to nations as to individuals. Nations as well as individuals are bound by them. If an individual releases a debtor, nothing can be demand of the security; so if a nation confesses itself satisfied for a claim it had against another, the same cannot be repeated against a third, although she bore a part in the responsibility. The reason of this is not a principle of municipal law, as you say, but an eternal and imprescriptible principle of universal justice, which is, that two satisfactions cannot be demanded for the same debt. Your excellencies say, that among nations they know nothing of such thing as principal and accessorial obligations; but I do not agree to this. Among nations, as among individuals, they may have accessorial obligations by mutual agreement, and also by the nature of things; since if two nations agree in an act from which results responsibility, for example, an injury or spoliation, it is indispensable that the responsibility and the obligation shall be proportioned to the intervention each party had in it; that which committed the injury shall be first responsible; that which did not avoid it, when she could and might, shall have less responsibility, having had less to do in committing the act; and this second responsibility may be called accessorial, or eventual, if your excellencies prefer that term; in which I observe that if your excellencies acknowledge the possibility that there might be eventual obligations between nations, I do not know how you can refuse to admit the possibility of accessorial obligations, as to my judgment it is the same idea, but only expressed by different words. But in the present case, if we were even to suppose that Spain and France were not, the first accessory, and the second principal, but associated and both being principals, it will come to the same thing, the obligation having disappeared by the payment of France, Spain remains released, as the obligation was one and indivisible.

Your excellencies will say that in the case on which we treat, Spain was the principal, and not only so, but the only one bound; but to me it is inconceivable how Spain can, in any manner, be considered as the only one bound; because it is not possible to imagine how France, who was not at war with the United States, could seize, condemn, and appropriate American property, without incurring some responsibility on her part. It would be a case never seen or

heard of, and which combats all principles, and is contrary to common sense. We will see, at least, if Spain can be said to be the principal obliged.

It is evident that the obligation which an offender has to repair his offence, and the right the offended has to demand reparation, arise in the same moment that the offence is committed. Let us apply this principle to what has occurred with respect to French cruizers and the American vessels. Spain was in alliance with France, and the two in war with Great Britain. Of consequence the French had a right to arm privateers, and the government of Spain to permit them to arm within her ports. They armed against the subjects of Great Britain, but when they went out, they committed infractions and violated the rights of other nations, and these are things which, in reality, the government of Spain neither could foresee or check. It results from this, that these offences existed and might exist before Spain knew any thing of it, and that of consequence the right of satisfaction existed before she had knowledge of the fact, and existed against the aggressor, which, without doubt, constitutes the principal obligation. When Spain might, if at all, with more propriety be considered as accessory, was, after her knowledge of the offence: but, in reality, she ought not even then to be considered as such, because the injury terminated and was completed by the definitive sentence which took place in the tribunals of France, in which they efficaciously and finally decided the sale of American vessels. In proof that the Americans who were injured considered this subject under this aspect, we find the tribunal of cassation full of the demands of the interested in vessels taken within the jurisdiction of Spain, and that these applications are supported, as I am informed, by the officers of the American agents in France; but as when they pleased, it is evident, that the United States not being in war with France, always had the door open to commence their reclamations against her. This circumstance, in the present case, constitutes a most essential difference: 1st, because the offender not being at war with the United States, could not be less than the first, if not the only one responsible for the illegitimate act: 2dly, because the United States had the door open to make the demands of the government of France, and thus had direct communication with the offender, which could not have been the case if war was declared: and 3dly, that Spain not considering the United States as in war with France, could not foresee the excesses that corsairs, armed in her ports against England, might commit against American citizens, nor less avoid the definitive sentences of the tribunals of France, which completed the offence. Besides, it is well known, that among civilized nations it is customary to demand from privateers, a bond or security, that they shall not cruize except against the enemies of the state; and as this bond or securityship could not exist but in France, it is a proof that it is there they ought to go to seek the responsibility; that is, in France; and the United States having renounced this, or being satisfied for these damages, nothing can be demanded of Spain. If upon this point there could remain

any doubt, the positive affirmation of the government of France, that they are satisfied, is sufficient to make it vanish. The government of France ought to know, without doubt, what were the offences she satisfied, by the convention of 1800, and it is not credible she would venture to say it was concluded, without a strong and intimate persuasion and conviction it was so, and which comes with great force from a third power, who does not find herself immediately interested in the present discussion, as are Spain and the United States. On the other hand, the affirmation of France is of the greatest importance, to establish the rights of Spain in this case; because if we suppose, for a moment, that Spain did pay to the United States the damages arising from the spoliations of the French privateers, there is not the least doubt she would immediately apply to France to be reimbursed, but she would, in reply, very justly refuse the reimbursement, saying that Spain had done wrong to make the payment, as France had previously communicated to her that the United States had been satisfied.

I have not attempted to avail myself of the argument, as your excellencies seems to suppose, that Spain could not prevent the injuries committed against the American vessels, although it was, in a great degree, the case, because it was not possible to prevent injuries of which we had no knowledge, such as the French privateers committed, which were armed in our ports against the English; my defence is founded in the assertion that the said damages are already satisfied by France, and so did the learned gentlemen of Philadelphia understand it, when in their argument they say: "But even leaving impossibilities out of the question, and admitting that the power A could have prevented the injury which was committed by the power C, *but refused or neglected* to do it, we are of opinion that if the power B has released the same injury to power C, in that case the power A is no longer liable to any responsibility in damages, on account of its acquiescence."

I have insisted principally on this method of defence, because founding it in an act clear and notorious, and of the most easy examination, it appeared to me the most convenient to repel a claim which Spain could oppose with many other reasons and arguments.

It is not demonstrable that a nation is obliged to satisfy the damages and injuries committed on her coasts, by the subjects of other powers, and cases without number might be cited to the contrary among civilized nations. Denmark had her ports open, during the last war to the belligerent powers, and condemnations of prizes were made in them, without there being, on this account, any responsibility demanded of her. Many other neutral powers suffered during the same war, various damages from the French cruizers, on the coasts and in the ports of Spain, without having demanded any other thing of Spain, than to interpose her good offices, and co-operate in obtaining redress for the injury. Spain, when she has been injured, has not demanded such indemnifications, and has only demanded

that the government whose flag or coasts have been violated, should pass efficacious offices for the reparation of the offence. This, and this is all to which Spain obliged herself by the 6th article of the treaty with the United States, in which, after offering defence and protection, reciprocally, for the vessels of both countries, within the extent of their respective jurisdictions, it says, that in case of offences of the nature of which we treat, each power in whose jurisdiction it is committed, shall employ all its efforts to recover, and have restored to its lawful owners, the vessels or effects which have been taken within the extent of its jurisdiction, from which it results that the only thing which it can be pretended Spain has obliged herself to, is to employ all her efforts to recover, and have restored, the vessels and effects so taken, but in no degree does there exist any obligation in her to make reparation, should such efforts not produce the desired effect; because, if it had been the intention of the high contracting parties to do this, it would have been expressly stipulated. As on account of this article, your excellencies pretend to be persuaded that Spain is the only one responsible for the excesses of the French privateers, I could not omit observing that the obligation of the power which has to restore, could not but be greater and more principal, than that whose obligation only is reduced to the making efforts that they might be restored; and that France being in the first case, and Spain in the second, it cannot but follow that the principal obligation rests on the first, and only that of accessory, on the second.

Proceeding now to the damage occasioned by the suspension of the deposite at New Orleans, I will endeavor also to answer, with the utmost brevity possible, your excellencies' remarks, in your esteemed note. In the first place, your excellencies will permit me to declare, that I see, with regret, that in what I said in mine, of the 16th, as to the deposite at New Orleans, being a generous and gratuitous concession of his majesty, and other parts of my letter, I did not explain myself as I wished. Your excellencies understood that I wished to say that the deposite, not only in the capital, but on any other point on the banks of the Mississippi, was a charitable donation of his majesty, revocable at his pleasure, either before or after the three years fixed for its being at New Orleans, and that it might remain revoked until the United States implored his majesty anew to restore it. It is not honorable to me that such assertions should be attributed to me. I said, and it was my intention to say, that in its origin, the right of the deposite granted to the United States, in New Orleans, flowed from a wish in his majesty to grant it generously, and oblige himself to maintain it there for three years, as a convenience to the United States. Nothing is more common than for a nation to impose on itself an obligation, gratuitously, in favor of another, without more interest than the satisfaction of having done it a useful service, without injury to itself. After the making of the stipulations and conclusion of the treaty of 1795, there was no doubt an obligation to maintain and comply with it; but in the case of the deposite, there are two things essentially distinct, which ought to be consi-



dered; the deposite in New Orleans, and the indefinite deposite in some other place on the banks of the Mississippi. The three years being over, and injury arising to the royal revenue from the continuance of the deposite of New Orleans, to have continued it there notwithstanding, cannot be considered less than as a favor of the king, my master, because no obligation existed on his part to do so, and if the United States had desired that the deposite in New Orleans should have continued in a manner not precarious, but established and obligatory, it was necessary to have a new stipulation, because his majesty was not obliged to do so. At present, as to what regarded the right of deposite in the other place, the United States did not require a new stipulation, because they had it by the treaty; but as the new place was not established in the treaty, it is clear the United States had to ask the fixing of it on the spot which they thought convenient; or the two governments had to understand each other in the establishing it; for as it was to be fixed to the satisfaction of the American government, Spain could not do it alone, or without their saying what were the qualities it out to have to answer their ends. The difficulty is not in this which is in itself simple, but it is in examining its situation after the end of the three years in the capital, and the other four in which his majesty generously continued it, he being under no obligation to suffer the inconveniencies which were encountered in the said four years, and the question now is, whether he could or not suspend the deposite in New Orleans, before agreeing with the parties concerned on the fixing another; or, in other words, if after the conclusion of the three year of the deposite at New Orleans, the king was obliged to suffer the inconvenience of its continuation until they could enter into a convention or agreement respecting another place; or further, if the United States could, in rigorous justice, be made to suffer the intervening inconveniencies of the suspension for the time necessary for the two governments to agree upon the fixing it. The treaty says nothing of this, and I hope I have shown, that good neighborhood and friendship should have permitted, for a short time, the inconvenience of the deposite at New Orleans, before proceeding to suspend it, and for this reason, his majesty revoked the edict of the intendant; but, speaking of what in rigorous justice can be supposed to be due to the solicitude of being indemnified for the same, I am of opinion, that as the treaty said nothing about it, his majesty was not obliged to continue the deposite at New Orleans, nor to suffer its inconveniencies, although he was bound to consent to its establishment in another place, on which his majesty could not determine alone, it being necessary it should be fixed equally to the satisfaction of the United States. I repeat, it is not my intention to approve the conduct of the intendant, nor to diminish the rights of the United States under the treaty, but to examine points unsettled in it, and to deduce from thence whether Spain was or was not liable for the indemnifications arising out of the suspension of the deposite at New Orleans; an examination which may, in my opinion, have been excused, from the

short existence of the injuries which might be considered as really attributable to the edict of the intendant.

In the interim, I renew to your excellencies the demonstrations of my distinguished consideration and esteem. I pray to God to preserve your lives many years.

(Signed)

PEDRO CEVALLOS.

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No. 14.

*Messrs. Pinckney and Monroe to Don Pedro Cevallos.*

*Aranjuez, March 8, 1805.*

SIR,

We have now the honor to answer your excellency's esteemed note of the 24th ult. respecting the eastern limits of Louisiana, the receipt of which has been already acknowledged.

We are happy to find that we shall not differ as to the material facts on which the question depends, to wit: that France held Louisiana prior to the treaty of 1763, to an extent eastwardly to the Perdido, comprising in it the greater part of West Florida; that she ceded it, by that treaty, to Great Britain, who, in 1783, ceded it to Spain, Spain having possessed herself of it by her arms in the course of that war; that the treaties referred to in that of St. Ildefonso, whereby Spain ceded Louisiana to France, as having passed subsequently between Spain and other powers, are that of 1783, between Great Britain and Spain, whereby the former ceded to the latter that portion of Louisiana called by her West Florida, and that between the United States and Spain in 1795: none others were made by Spain relative to that object; they, therefore, only could be referred to. We admit also that they were referred to by a real and sufficient motive.

We are also happy to find that we shall not differ in opinion on the principles of the law of nations, or the rules by which treaties are to be construed under them, especially the following, to wit: that treaties must not have an odious or absurd construction when it is possible to give them a plain and simple one: that the intention of the parties to a treaty, is to be collected from the whole article: that each clause is to be taken into view, and the import of the whole collected from that of each clause; and that no part is to be supposed superfluous to which a rational meaning can be given.

We should be happy if we could agree in the application of these facts and principles to the point in question. We draw, however, from them, by the clearest evidence and most satisfactory reasoning, a conclusion, that under the treaty between the United States and

France of 1803, which is founded on that of St. Ildefonso between Spain and France in 1800, West Florida was comprised in the cession of Louisiana to the United States. Your excellency is, it appears, of a contrary opinion.

Before we proceed to the inquiry, and to answer your excellency's note, we think proper to premise that it would have been more agreeable to the United States to have obtained the cession of that province of France by a strict definition of its boundaries, since in that case, they would have known distinctly what they had acquired, and avoided the necessity of a discussion with Spain. But as these had not been traced between France and Spain, it was impossible to give such a definition. It was, therefore, agreed, that France should cede to the United States precisely what she had acquired of Spain, and that the extent of that acquisition might be known, that the 3d article of the treaty of St. Ildefonso, between France and Spain, should be inserted in that of Paris between the United States and France. Thus, that article, and it alone, became the extent of the right which the United States had thus acquired. There is nothing in the treaty, nor did any thing occur in the negotiation, to detract from its just and rational import. The United States were at liberty, as France would have been, had the cession not been made, to examine under it, the extent of their rights, and in so doing, to appeal to those facts and principles, which, in the estimation of the enlightened and impartial world, ought to govern in the case. It is by this investigation, that the government of the United States has formed its opinion of their rights, and it is from a regard to justice, and motives of respect to his catholic majesty, that they are now made the subject of amicable discussion with his government. Having made these remarks, we proceed in the proposed inquiry.

We observe that your excellency relies much in support of the pretensions of Spain, in the point in question, on the import of the term "retrocede," which is found in the treaty; that you consider it as going far to decide the question in her favor. We cannot but express our surprise, that such reliance, or indeed, that any, should be put on a term vague and equivocal at best, which it is easy to show neither has nor was intended to have any influence in the question. If it were of any importance to analyze that term, it might be contended, that as France once possessed that province, a cession of it back to her, by any power who had obtained it of a third, was a retrocession of it. By ceding it back to France, the former proprietor, it would, in respect to her, be a retrocession, although not one acre of it had been received of her by the power making it. And it is very likely, under such circumstances, that such would have been the title of the treaty, or the phraseology of the article applicable to the subject. In the present case, all the territory which was ceded back to France, had belonged to her before; 19-20 of it, supposing West Florida to be a part, had been previously ceded by her to Spain, and that 20th part had been ceded by her to another power to accommo-

date Spain, of whom Spain had obtained it. Was it not natural then when Spain ceded back this territory to France, that the term retrocession should be made use of? Had it been the object and studious endeavor of the parties to characterize, in the treaty, the former proprietorship and transactions respecting this territory, and no more could have been intended, it is not known how, even with the import annexed to the term by your excellency, a more suitable or just one could have been adopted for the purpose. But as already observed, this term is of no real importance in the case, nor was it intended to have any by the parties in the sense alluded to, as is perfectly evident by the other parts of the article. We find in it three distinct members or clauses, which were introduced for the express purpose of explaining what was intended to be done. By these is fully and accurately defined, what proportion of that province should be transferred to France, and what other proportion of it should be exempted from the operation of the treaty. If it had been intended that the term "retrocede" should be understood in the sense insisted on by your excellency, it is presumeable that none others would have been used, since, not being necessary to illustrate, they could only serve to obscure and perplex. The introduction therefore of other clauses, plainly proves, that that term was not to be relied on as expounding the object of the parties, but that those clauses were to do it. It will not be denied, that although the title of the treaty might be what it is said to be, and the term "retrocede" introduced in every page, and although Spain had never received one acre of the territory from France, that she might, nevertheless, by suitable operative clauses, convey and transfer to France all that portion of Louisiana which she possessed, if she was so disposed. It is by the operative clauses of every treaty, and of every article in each, that their meaning is expounded. It is to them that we must respectively refer in the present instance for the intention of the parties, in that of St. Ildefonso, and the extent of the rights of the United States acquired under it.

By the first clause of the third article of the treaty of St. Ildefonso, Spain cedes to France the province of Louisiana "such as it is in the hands of Spain." It is to be observed, that the reference here made to that province, was in its integral state, that is, while in the possession of France, and of course prior to the cession made of it by her in 1763, as will be more fully seen by the next clause. The simple question then on this clause is, what portion of Louisiana was in the hands of Spain, when the treaty of St. Ildefonso was formed? All that portion, be it what it might, was clearly and positively comprised in the cession, and transferred to France. All that portion, be it what it might, not in the hands of Spain, was as clearly and positively excluded from it. This is the plain and obvious import of the clause; indeed it admits of none other; by adhering to which every thing of an absurd and odious tendency is avoided, simplicity in the construction is preserved, and what is of equal importance, the integrity and fair intentions of the parties are manifested. All that portion of Louisiana,

according to its ancient limits, which lies eastward of the Mississippi, from the 31° of north latitude to the northern limits of the United States, had been ceded by the treaty of 1763 to Great Britain, to which France, Spain, and Portugal, were parties, and afterwards confirmed by her to the United States at the close of the war of their revolution in 1783, to which France, by her treaty with those states in 1778, had already renewed her special sanction, as did Spain afterwards by her treaty in 1795, with the addition of the right of deposit at New Orleans. It would, therefore, have been highly improper in the parties to the treaty of St. Ildefonso, to have formed it in such a manner, as to have admitted the cession to have applied, by any possible construction, to any part of that territory, or rights belonging to it. Accordingly, we find by the clear and obvious import of the article, that such a construction is altogether and absolutely precluded, and by terms the most suitable and judicious that could have been selected. We find also, that the article is equally clear and explicit as to the portion of the province which it was intended to cede. By ceding that portion, and that only, which was in her hands, Spain did what she had a right to do, and no more, of which a very distinct idea was conveyed in both respects. She excepted from the cession all the territory above described, which of right ought to have been excepted. She comprised in it all that she had a right to cede, including, of course, as being her property, and in her hands, West Florida.

In the second clause the cession is further explained and confirmed, in the following terms: "such as it was when France possessed it;" by which a clear and explicit reference is made to the province at a period preceding the treaty of 1763, when France possessed the whole. This clause would of course have been understood to have comprised the whole, had no part been specially excepted from the cession. But we have already seen, that by the operation of the first clause, all that portion of the province, according to its ancient limits, as known before the treaty of 1763, now belonging to the United States, was clearly excepted from it. In every other respect, however, its operation is uncontrolled. It certainly comprises all that part which was then in the possession of Spain, from whatever power, or by whatever means obtained. By referring to it at an epoch anterior to the treaty of 1763, that is, when France possessed it, it was obviously the intention of the parties to reject all idea of subsequent divisions, modifications, or appellations, by either of the powers who were since possessed of it. It was well known that Great Britain had called that portion which was ceded to her by the treaty of 1763, West Florida, and it was probable, that Spain might have called some other portion of it, adjoining Mexico, by some other name. Hence, it was possible, if by any construction an allusion to the province had been admitted, at any period after 1763, that these distinctions and terms might have created some embarrassment in the meaning. To avoid that danger, it was deemed advisable to go back to

an anterior epoch, and thereby put them entirely out of the question. This clause then shows still more clearly, that it was the intention of the parties to include West Florida in the cession, since, by taking them together, and giving to each and both their just construction, it is impossible to mistake their meaning. By the first, all that portion of Louisiana, which was in the hands of Spain was transferred to France; but as it was possible, for the reasons just mentioned, that doubts might arise whether West Florida was comprised in the cession, by this it is expressly declared, that no part of the province in the hands of Spain, which France had ever possessed, should be exempted from it.

By the third clause of the article, the cession of the province is declared to be in an extent "such as it ought to be after the treaties passed subsequently between Spain and other powers." The treaties referred to here, are that between Great Britain and Spain in 1783, whereby West Florida was ceded to the latter, and that between Spain and the United States in 1795, whereby the boundary adopted in their treaty with Great Britain, with the right to the free navigation of the Mississippi, and deposite at New Orleans, were established. What then is the effect of this third clause? To us, nothing can be more simple or intelligible. We will first examine it in reference to the first treaty, which alone creates the difficulty. By that, Spain became possessed of a portion of the province of Louisiana, which she had not acquired of France, by means whereof, such addition is brought within the scope of the two first clauses already noticed, and is transferred by them to France. It is brought within the scope of the first, because "it is in the hands of Spain." It is brought within the scope of the second, because it is a part of the province "such as it was when France possessed it." And by the terms of the last or third clause, it is expressly designated as a portion of the territory which it was intended to cede by that treaty to France. If we examine impartially the import of these terms, we shall find that it is impossible to give them any other rational interpretation in reference to this object. The terms are, "such as it ought to be after the treaties passed subsequently between Spain and other powers." This portion having been a part of the province when France possessed it, and being now by the treaty of 1783, vested in the hands of the same power who held every other part, not expressly excepted from it, as belonging to, and secured to, the United States, by many treaties, as already stated, ought to be considered as a part of it again. Had Spain possessed and ceded that portion of Louisiana to Great Britain by the treaty of 1783, or at any time before that of St. Ildefonso, this clause would have exempted it from the cession, as would both the others. Being out of the possession of Spain those clauses could not have operated on it, and being ceded by Spain to another power, in a treaty passed subsequently, that is, after 1763, the cession would have been sanctioned by this clause. But Spain did not cede that territory to Great Britain; on the contrary, she acquired it of her, and it is

inconceivable to us how that acquisition, which brought it into her possession, and subjected it to the control of the two first clauses, should be supposed to have exempted it from such controul; how a treaty which enlarged the limits of the province in her hands, without producing any other effect, should be construed as lessening the extent of the cession. The reference made by this clause to the treaty of 1783, must be considered as intended to produce an effect in the present one, correspondent with the spirit of that of 1783. It would be strange indeed, if it counteracted that spirit, and produced an opposite effect. And in judging of the effect which it was thus intended to produce, not only the spirit of that treaty is to be regarded, but this clause must be construed in connection with the preceding ones, so as to give them their just effect also. It is a well known rule in the construction of treaties, "that the parts appear consonant to each other; that what follows agree with what went before, at least if it does not manifestly appear, that by the last clauses something was changed that went before." If we apply this rule to the present case, the conclusion is unavoidable, since by the construction we contend for, all the clauses have their just import, are consonant to each other, unite in the same object, and produce the same effect, which is to show that it was the intention of the parties to comprise West Florida in the cession.

With respect to the effect of this clause on the other treaty referred to in it, to wit: that of 1795 between the United States and Spain, it is obvious that it was the intention of the parties to secure to those states, in the hands of the new proprietor, the rights which they had acquired on that territory by that treaty. It was, it is true, impossible for those parties, or any others, in a treaty between them, to destroy the rights of a third one. It was, nevertheless, very proper and honorable in them to insert a provision in this for the security of those rights.

Having thus examined carefully and impartially the third article of the treaty of St. Ildefonso, under which France ceded to the United States the province of Louisiana, and, as we presume, proved incontestably by a just construction of several clauses, that West Florida was a part of the cession, we will now proceed to notice some of the other remarks of your excellency which merit a more particular attention.

Your excellency observes, that as the territory in question, to wit: that lying between the river Iberville and the Perdido, was called by Great Britain West Florida, after it was ceded to her by the treaty of 1763, and as that name had been preserved to it by his catholic majesty in the title to his governor at the Havanna, since it came into the hands of Spain, that it cannot be considered as comprised in the cession to France, by the treaty of St. Ildefonso. But we have already shown, and we presume satisfactorily, that that objection is altogether unfounded, supposing the fact as thus stated to be correct in

both cases; though it is proper to observe, that we had understood that the territory in question had been governed as a part of Louisiana after the treaty of 1783. Be that, however, as it may, it is proved by referring to Louisiana, at a period when it was possessed by France, to characterize the session made, that it was an essential object of the two first clauses to get rid of that objection, and that they have done so as effectually as if that division or name had never existed. It was also observed, that any construction of those clauses which should comprise West Florida within the cession, might, with equal propriety, be considered as applicable to all that portion of Louisiana which lies within the limits of the United States. We cannot perceive on what principle this remark is founded, since, as the facts are different, there is certainly no analogy in the cases. To support the doctrine, it ought to be shown that West Florida is not in the possession of Spain, but of the United States or some other power. We have shown, by a fair construction of the clauses, that it is by virtue of that portion of the province, being in the possession of Spain, that it was comprised in the cession to France; and by virtue of the other portion of it, that is, what belongs to the United States, being out of the possession of Spain, that it was excluded from that cession.

Your excellency observes also, that if it had been the intention of the parties to include West Florida in the cession, it would have been easy to have expressed it. We do not know that it would have been possible to have expressed it in a more clear manner than is done; we are satisfied that other terms, more comprehensive and guarded, in reference to all the objects which it was proper the parties should have in view, more intelligible, less free from objection, and, at the same time, so concise, could not have been found. With strict propriety may we say, that if it had been the intention of the parties to exclude West Florida from the cession, that it was very easy to have done it, and that the means were obvious, since it was only necessary to have stated that Spain ceded to France that portion of Louisiana only which she had received from her. Had that been done there would have been no occasion for the subsequent clauses, especially the two first, to explain the meaning of the parties and define the extent of the cession. We might add, that if the case admitted of any doubt, which, however, we deny, for in our judgment there never was a clearer one taken into consideration, that from the nature of the transaction, that doubt ought to operate against Spain, since it is a well established doctrine of the law of nations, in the construction of treaties, that in all cases of grants or cessions, "if the party making them fails to explain himself clearly and plainly it is the worse for him: he cannot be allowed to introduce subsequent restrictions which he has not expressed." We do not, however, think that the present case admits of any doubt.

We cannot suppose that the French prefect, M. Lauzat, had any instructions from his government by what limits he was to receive



the province of Louisiana from the officers of Spain, or that he had its orders to surrender it to the United States by any of a definite nature. This opinion is founded on the treaty between the United States and France, by which the session was made to those States, and in which no limits were defined, for the reasons stated in the commencement of this note. We entertain, as already observed, a very high respect for his Imperial majesty, and we can never believe that he would, by any act of his, be willing to invalidate any of the rights which the United States had acquired under that treaty.

With respect to the opinion entertained by Mr. Ellicot, on this point, we have only to observe, that although we believe him to be a good astronomer and geographer, we are far from considering him in the light of an able civilian. It is presumed that he ran the line between the United States and Spain correctly, in the case alluded to, and that his charts may also be correct; but we doubt whether he ever read with attention either of the treaties on which the present question depends, or would be an able expounder of them, if he had. In making his book, which, it appears, he had completed before he was acquainted with the cession of Louisiana to the United States, or with the nature of that made by Spain to France, which was then for the first time known, it was natural that he should consult the old maps of the country, and regard the divisions that were made of it, prior to that epoch, especially in conformity to the treaty of 1763. Under such circumstances, and in consideration that this question depends on treaties, your excellency will, we presume, see the evident impropriety of paying that deference to Mr. Ellicot's opinion, which you have been disposed to allow it.

We have read with much attention your excellency's note of the 4th, on the subject of French spoliations, committed within the limits of Spain, and are sorry to find that the opinions which we respectively entertain on it, are as remote from an accord as they were in the commencement. We have read, with equal attention, your remarks on that of the suppression of the deposite at New Orleans, in which you do not seem to assent to the ideas which we deemed justly applicable, and thought it our duty to express, relative to that interesting and unexpected occurrence. Having said all that we have to observe on those points in our former notes, and having communicated fully our sentiments in this, as in that first presented, respecting the eastern limits of Louisiana, it remains that we should now proceed to the last topic depending between us, to wit: the western limits of that province. Having already had the honor to present our view of the rights of the United States on that point also, we shall be happy to be favored with that of your excellency on the same.

We avail ourselves of this occasion to observe that we received with much pleasure your excellency's note of the 28th ult. in reply to our remarks on that of the 16th, the purport of which was further confirmed in that of the 4th inst. since it gives us the very satisfactory assurance, that it was not your intention, by any expressions in

that note, to convey the unfavorable sentiments in regard to our government and country which we had supposed it did. It was with much reluctance that we communicated to your excellency the impression which that note made on us, which we certainly should not have done, had we not believed that it would have produced a similar one on our government, on whom, we were persuaded, it was neither your wish or intention to produce it. The frank and honorable explanation which you have given us in that respect, is a full confirmation of what we had anticipated on that head, and an ample assurance, that whatever may be the result of the business entrusted to us, we shall carry with us the sentiments of that high consideration and respect for your character which it justly merits.

We beg your excellency to accept the assurance of our high consideration and esteem.

(Signed)

CHAS. PINCKNEY.  
JAS. MONROE.

*His Excellency*

*Don Pedro Cevallos,*

*Secretary of State, &c. &c. &c.*

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No. 15.

*Don Pedro Cevallos to Messrs. Pinckney and Monroe.*

GENTLEMEN,

I have received your esteemed letter of the 8th, in which you are pleased to answer mine of the 24th past, relative to the limits of Louisiana, and I cannot do less than immediately reply to it.

I agree at once with your excellencies, that treaties ought not to receive odious and absurd interpretations which are capable of clear and simple ones, and that the intention of the parties ought to be collected from the whole context, and from each article. From these principles, and this mode of examination of the 3d article of the treaty of St. Ildefonso, I deduce consequences from the same, very different from those which your excellencies have done.

Your excellencies believe to be of very little importance to the decision of the present question the word "retrocede" or "retrocession," which is the title of the treaty of St. Ildefonso, and is found

in the said 3d article; and suppose it is a term vague and equivocal, which has no influence in the question, and that if it had been important to analyze it, it might be easily made to appear that, with the expression "*retrocede*," it also intended to denote that West Florida, or a part of it, ought to return to France, although she had not ceded it to Spain. For my part, I cannot but be surprised your excellencies should consider vague and indeterminate an expression which serves to denominate the treaty, whose title, literally copied, is as follows: "Traité Préliminaire et secret entre la République Française et S. M. C. touchant l'agrandissement de S. A. R. Le Duc de Parme en Italie et la rétrocession de la Louisiane," and which governs the whole proceeding, and is conspicuous in all the clauses of the 3d article of the said treaty. On a single reading of this article, there is no one but must know, that according to grammatical order, and the common use of language and words, the words "to engage to retrocede" is the principal action of it; and this principal intention is conspicuous through all the context and clauses of the article, and that although the following expressions may modify it, they can in no degree contradict it without giving to the whole an absurd meaning, and as repugnant to common sense as to the most simple rules of grammar and the art of writing; nor can it be said, without discredit to the contracting parties, that they should avail themselves of an expression vague and equivocal, and use it exactly in the most important article and upon one of the most interesting objects of the treaty; and that, with a view to find such vague expression, they should select the one *retrocede*, having at hand the one *cede*, which, followed by other explicit clauses that might have been inserted, would have explained with facility and precision the return of Louisiana to its former owner, and the cession of West Florida, if such had been the intention. But it was, no doubt, the intention of the parties that the expression *retrocede*, which has given name to the treaty and serves to express the principal design of the 3d article, should be marked with all the exactness and grammatical rigor possible; nor is it susceptible of doubt that the expression "*retrocede*," in its obvious and grammatical sense, means to cede to one what it has received from it. Your excellencies ought not, therefore, to think it extraordinary that I have believed, and do believe, that this expression is of the greatest consequence to the decision of the present question. The force it carries with it makes us see at once with what exactness and simplicity the other parts of the article quadrature with it. If we set out from the beginning to give to the expression "*retrocede*" a meaning which it has not, it will not be extraordinary if we find some embarrassment and difficulty to decypher the said article: it says, in the first place, that it retrocedes Louisiana "*avec la même étendue qu'elle a entre les mains d'Espagne*;" but this expression, in the mode in which your excellencies construe it, appears absurd and contradictory. It is indubitable that Spain possesses West Florida, as Florida, and not as Louisiana; and this

act, founded on an authenticity the most notorious, is marked in the treaty of 1783 and 1795, in a manner which cannot be contradicted or admit of a doubt: consequently, Louisiana “avec la même étendue” which it had in the hands of Spain, is without West Florida, and to suppose that the cession could have comprehended this province, it was impossible to suppose it could be Louisiana, with the same extent, without incurring a palpable contradiction. Your excellencies know the force of this difficulty, and wish to explain the 1st clause by the 2d, which says, “et qu’elle avoit lorsque la France la possédoit;” but, I ask, has the 2d clause a fixed epoch, which determines the time when France had it? Certainly not. Then the want of this fixed epoch alludes to the last time when France had it; that is, when she delivered it to Spain; an explanation the more convenient, as in any other manner it will be contradictory with the 1st, which says, “avec la meme étendue qu’elle a entre les mains d’Espagne”—if it was with more, it could not be with the same: it is more natural that a clause which has a fixed epoch, as the first has, should serve to clear up the sense of the 2d, which has no epoch or extent fixed, than that we should give so much force to the doubtful epoch of the second clause, as to make it destroy the clear and marked meaning of the expression “retrocede” in the 1st clause, “avec la meme étendue.” Admitting the explanation of your excellencies, the 2d clause is in contradiction with the 1st; admitting mine, both explain and combine simply, and prove that Spain delivered Louisiana to France with the same extent that it had in her hands in 1800, and as France possessed it when she delivered it to Spain; but as neither in the one or other epoch West Florida made a part of Louisiana, the two clauses perfectly unite with each other, and both with the principal action, *retrocede*, which governs all the clauses of the article.

The 3d clause, which your excellencies suppose can also be brought as a proof that West Florida is included in the retrocession of Louisiana made to France, is, to my understanding, a new proof of the contrary. It says, “et telle qu’elle dût être après les traités passés entre l’Espagne et d’autres Puissances.” It is impossible to make any thing clearer than that the treaty did not alter any thing in the treaties which Spain had made with other powers on this subject. There were two, one of 1795, with the United States, and one with England, in 1783, by which Spain had acquired the territories to the eastward of the Mississippi, not as Louisiana, but as Florida; and consequently to be as it ought to be after this treaty was with the exclusion of a territory possessed by England, as West Florida, conquered by Spain as West Florida, and acquired irrevocably as West Florida, by the treaty of 1783, and received, in each of these solemn acts, a new qualification of its total separation from Louisiana, and of the limits which separate them.

Your excellencies contend, that the treaty of 1783, was a new incorporation of the said Territory of Louisiana; but I do not see in

the said treaty of 1783, any thing but a confirmation of the right of conquest which his majesty's arms had made of an English province called West Florida. The cession which France had made to England of the said territory, had been an alienation, perfect, irrevocable and perpetual. The territory became an English possession, and afterwards a Spanish one. That Spain on the other side, and by other titles should have acquired Louisiana, and that the two territories should return to be united in the one hand in which they were before united, does not import, nor can it import a legal incorporation of them; because their titles and times of acquisition were different. Spain had no Louisiana, but what she received from France, and it was undoubtedly Florida she received from England.

It is not conceivable or imaginable how the cession of a province or territory, could occur without mentioning or naming it, or that it could be made only by designating it with a name, which by the consent and notice of all the nations concerned, and the most authentic public acts it had lost many years ago. This territory was called West Florida, and was so called authentically, and by this name, the contracting parties would have called it, had they imagined it was comprehended in the cession, as it is an acknowledged principle that the territories they change or cede, ought to be designated by the names they then officially have; nor can it be said, that by its entrance into the possession of Spain, it returned to its antient state and name; because all the public acts since its entrance into the possession of Spain from the treaty of 1783, inclusive, have confirmed its separation from Louisiana, and its difference of name springing from the difference of its title of acquisition; after a separation so qualified, it was only an express and positive stipulation that could reunite it to Louisiana in its retrocession. Your excellencies have attempted in your note to persuade me that the treaty of 1783, reunited West Florida to Louisiana anew, attributing it to the motive which made France cede to England in 1763, the territory to the eastward of the Mississippi; and this motive your excellencies say, was to favor Spain. But on my part I cannot agree to this. France ceded this territory because she felt it her interest to do so, or was obliged to do so: but this is of no importance, for be the motive what it may, the cession cannot be considered less than an effectual, irrevocable, and perpetual alienation, with all the consequences which were to make West Florida an English possession—being so, Spain could conquer, acquire, and receive it from England, having this original and just title to it, and this alone is all she requires to make it her property in every sense of the word, and as independent of Louisiana as it was in the hands of England.

It results from this, that the contracting parties had no intention to include West Florida in the treaty of San Ildefonso: this is the more confirmed, if we recollect that France could not do it, nor could she stipulate for the acquisition of any territory to the eastward of the Mississippi, without the consent of the United States, as she had

obliged herself to this by an express stipulation, contained in the 6th article of her treaty with the United States, which article says. "Le Roi tres Chretien renonce a posseder jamais les Bermudes, ni aucune des parties du continent de l'Amerique Septentrionale, qui, avant le traite de Paris de 1763, ou en vertu de ce traite, ont ete reconnues appartenir a la couronne de la Grande Bretagne." It is to be seen from this that France could not (if the United States did not consent when she had bound herself by this treaty) acquire West Florida, which, by the treaty of 1763, belonged to the crown of Great Britain. If, in the treaty of San Ildefonso, France had intended or proposed to acquire West Florida, it is clear she could not do so without the consent of the United States, and that this consent ought to precede all other stipulations—on the contrary, if France should have infringed the rights of the United States, which can in no manner be supposed, it would not be decorous to the United States to give to the treaty of St. Ildefonso an interpretation from which it must result as a necessary consequence, that France had violated their treaty with the United States, and that they founded their right to West Florida on this violation.

The opinion of the astronomer and geographer Ellicott, which is so exactly conformable to the ideas I have just stated, and whose concluding expressions I transmitted you in my letter of the 24th, is of very great weight and consideration on this subject. I do not suppose it, as your excellencies do, a question for a lawyer or civilian—it is in its whole extent entirely geographical—it only treats of the question whether the territory to the east of the Mississippi, at the time of the retrocession, was Louisiana or West Florida. What person more proper to give an opinion on this subject than the one who has merited to be employed by the United States in fixing the limits of the very territory he treats about? It is dishonoring his talents to say he had not with him the maps both antient and modern of the said territory, and the most authentic documents respecting it, and using, as he does, the expressions I copied for your excellencies in my letter of the 24th ultimo, after he knew of the acquisition of Louisiana by the United States, leaves no doubt that his love of truth and justice forced from him this sincere confession of the incontestable right of Spain to the territory of West Florida.

But all further reflections are unnecessary upon this subject, when it is considered that the treaty of San Ildefonso, was a contract between France and Spain, and that of consequence on whatever point of it (however it might appear doubtful) on which France and Spain are agreed in their understanding and explanation of it; this uniformity of understanding has as much force as the most explicit and determinate stipulation, because no one can know as well as the contracting parties, what the one was to cede and the other to receive. The United States who have succeeded to the right of France, can have no other right or claim, than that which France supposed she had. France has been, and is now persuaded, that by the treaty of

retrocession, she neither did or had any intention to acquire West Florida. The prefect Lauzat, charged to carry the treaty into effect, instructed perfectly in its contents, and being depositary of the intention of his government, was satisfied of the manner in which it was carried into execution without being put into possession of West Florida: which act leaves no doubt of the manner in which France had understood the treaty of San Ildefonso should be executed. But if your excellencies should still consider this as insufficient proof, will you permit me to send you a copy of a declaration the most positive which can be imagined, in which the government of France declares that it never thought of acquiring territory to the eastward of the Mississippi by the treaty of St. Ildefonso, nor less has ceded it, nor could cede it to the United States. The minister of foreign relations of France, has written upon this subject on the 30th of August last, to his majesty's ambassador in Paris, and in his letter are the following remarkable expressions. "Les limites orientales de la Louisiane sont indiquées par le cours du Mississippi et ensuite par la rivière d'Iberville, le lac Pontchartin et le lac Maurepas. C'est à cette ligne de démarcation que se termine le territoire cédé par l'Espagne à la France en vertu de traité de 30, Ventose, an. 9. La France n'avoit rien demandé à l'Espagne au delà de cette limite; et comme elle n'a fait que substituer les Etats Unis aux droits qu'elle avoit acquis; ils ne peuvent pas exiger de l'Espagne une concession de territoire plus étendue, à moins que cette concession ne soit négociée et stipulée entre eux et l'Espagne par quelque convention ultérieure."

These expressions are so determinate and clear as not to permit me to make any further reflections on them, persuaded that the simply reading them is sufficient for the conviction that as Spain did not think of ceding, nor France of acquiring West Florida by the treaty of San Ildefonso, it is clear that the United States who have succeeded to the right of France, could not acquire that which she did not suppose to belong to her and which she has declared she did not acquire nor think of acquiring. This point appears to me so little susceptible of doubt, after what I have said and had the honor to say to you excellencies in my letter of the 24th ultimo, to whose contents I again refer you, that I am confident the justice and well established good faith of the United States, will acknowledge that they cannot found any right to West Florida, from the treaty of San Ildefonso.

Concluding this letter, I cannot but declare my satisfaction to your excellencies, that I see by yours of the 8th, you are persuaded of my unalterable sentiments of respect and consideration for the United States, and also of my constant esteem for, and wish to please your excellencies, which I now have the honor again to renew, praying to God to guard your lives many years.

(Signed)

PEDRO CEVALLOS.

Aranjuez, 14th March, 1805.

*Messrs. Pinckney and Monroe to Don Pedro Cevallos.*

*Aranjuez, March 16, 1805.*

SIR,

We had the honor to receive, yesterday, your esteemed note of the 14th, and are sorry to find that we still continue so distant in our opinions upon the subject of it.

In our last we gave your excellency so fully the view which our government entertains of the right of the United States to West Florida, and are still so firmly persuaded of their undoubted title to the same, that we think it unnecessary to remark further on that point.

All the questions in controversy between us having been discussed at length, and having been favored with your excellency's opinion on each of them, except the western limits of Louisiana, we now take the liberty to request you to furnish us with the same, in answer to our communication on that subject.

We beg your excellency to accept the assurance of our profound consideration and respect.

(Signed)

CHAS. PINCKNEY.

JAS. MONROE.

No. 17.

*Messrs. Pinckney and Monroe to Don Pedro Cevallos.*

The undersigned, ministers plenipotentiary and envoys extraordinary of the United States of America, have the honor to inform his excellency Don Pedro Cevallos, that the length of time which has elapsed since their last note to his excellency, to which no answer has been given, induces them to suspect that his silence is intended as an intimation of his desire that the negotiation should cease. They are sorry to add, that the spirit with which the friendly advances and overtures of their government have been received, would leave no doubt in their minds, on that point, if his excellency had not given them reason to expect, by his note of the 4th instant, some propositions on his part for the fair and equitable adjustment of the differences subsisting between their governments. Having completely fulfilled the orders of the President in proving by their communications, and by the time they have attended his excellency's propositions, the justice and moderation of his views, as well as of his friendly disposition and high respect for his catholic majesty, it remains that they should not be unmindful of what they owe to the



government and country, which they have the honor to represent. It neither comports with the object of the present mission or its duties, to continue the negotiation longer than it furnishes a well founded expectation, that the just and friendly policy which produced it on the part of the United States, is cherished with the same views by his catholic majesty. Under such circumstances the undersigned consider it their duty to request of his excellency, information whether it is his desire to terminate the negotiation on the grounds it now rests. In case it is, they think proper, in expressing their regret at the result, to add that they shall not hesitate promptly to comply with it. But if it is still his excellency's desire to continue the negotiation, they have to request that he will be so obliging as to give them the sentiments of his majesty's government, respecting the western limits of Louisiana, and that he will also accompany it with such propositions as he may think proper to make, for the adjustment of the very important and interesting concerns between the two nations.

The undersigned have the honor to offer to his excellency the assurance, &c.

(Signed)

CHAS. PINCKNEY,  
JAS. MONROE.

*His Excellency Don Pedro Cevallos,  
First Secretary of State, &c. &c.*

*Aranjuez, March 30, 1805.*

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No. 18.

*Don Pedro Cevallos to Messrs. Pinckney and Monroe.*

*Aranjuez, March 31, 1805.*

GENTLEMEN,

I have received your esteemed favor of yesterday, in which you are pleased to inform me, that the delay of my answering your favor of the 15th, has made you suppose it was perhaps the disposition of this government to put an end to the negotiation in its present state. In answer, it is my duty to inform your excellencies, that it has always been the disposition of this government to continue, until concluded, a negotiation which has for its object, a termination of

discussions that exist between the two countries, examining first each controverted point, and endeavoring to fix as far as possible the the rights of each country, to begin afterwards the negotiations that may be convenient to both: that with this view, and according to this plan, we have examined and discussed the greatest part of the said points. There is now remaining to treat only, respecting the western limits of Louisiana; on which point I promised to transmit to your excellencies the opinion of this government with the greatest despatch possible, as I have already assured you. Being very sorry that my many indispensable avocations, and the attention which a subject of this nature requires, have not yet permitted me to execute it, and that your excellencies should have interpreted my silence since as a wish to put an end unseasonably to the negotiation.

With demonstrations of my sincere respects, I renew to your excellencies, &c.

(Signed)

PEDRO CEVALLOS.

*Messrs. Pinckney and Monroe.*

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No. 19.

*Messrs. Pinckney and Monroe to Don Pedro Cevallos.*

*Aranjuez, April 9, 1805.*

The undersigned, ministers plenipotentiary and envoys extraordinary of the United States of America, have the honor to inform his excellency Don Pedro Cevallos, that they consider his omission to answer their notes relative to the western limits of Louisiana, for so long a term, with his refusal to accept their propositions of the 28th January, or to propose any others in their stead, for the amicable adjustment of the differences between the United States and Spain, as having evinced the sentiments of his majesty's government on that interesting subject in terms too strong to be misunderstood. By refusing to answer propositions until a discussion was ended, in the mode which his excellency thought proper to pursue, and declining to bring it to an end, even in that mode, within the term which naturally belonged to it, the indisposition of his government to such an adjustment, is as strongly declared, as if it was announced to them in form. They think proper to add, that by exacting of them in the commencement, a discussion in that very dilatory mode, they had even then anticipated unfavorably of the result. To their proposi-

tions which embraced every object, in a frank and explicit manner, they had expected a correspondent answer. In discharge however of the great trust confided to them by their government, they were resolved to keep in mind, and to fulfil in the best manner they could, all its duties; among which they consider it an important one, not to fail in any circumstance of respect, which was due to his catholic majesty or his ministry. On that principle they entered into the discussion, in the manner proposed by his excellency, although it was contrary to their inclination, to their judgment of what was proper in such a case, and to what was agreed between them in their first interview. They did so in the presumption that the discussion would be of short duration; that it would not consume more than a few weeks, before they reached its object, and that a conclusion of the negotiation afterwards, in one mode or other, would require a still shorter time. They well knew that the subject had been long before his majesty's government, that every part had been acted on by it, and was of course well understood; they were aware also that the extraordinary mission which the president had appointed to his catholic majesty, had been announced to him, and been some time expected by his ministry. Under these circumstances the undersigned could not doubt that his catholic majesty's government would be prepared to meet that mission on every point, and to terminate it with the utmost promptitude. What however has been the result, and how has their accommodating spirit been requited? If the first indications were unfavorable, they have been fully confirmed since. The United States will be astonished to learn in what manner the friendly advances, and liberal overtures of their government have been received! That after exacting from their ministers a form of discussion which tended unavoidably to delay, his catholic majesty's ministers had ceased at length to discuss at all!

The undersigned have thought proper to communicate to his excellency their sentiments of what has passed, with that frankness which the nature of the subject requires, and which is due to the government and country they have the honor to represent. In conformity with those sentiments, of the conduct of his catholic majesty's government towards the United States, at a period, which under existing circumstances, is made signal, by the proof which the President has furnished of his strong desire to preserve the relations of friendship between the United States and Spain, it might be expected, that considering the negotiation as thereby terminated, as in truth it essentially is, they would take the step which is incident to that state of things, and that Mr. Monroe retiring from Spain, would repair to his station at London. It is perhaps their duty to take that step at this time. They are however willing to make one further effort to accomplish the objects of the mission, and to add a new and solemn proof to those which already exist, that its failure, should such be the case, shall in no respect be attributed to their government or themselves.

With this view, whose just and friendly character will, they presume, be duly appreciated, the undersigned have the honor to inform his excellency, that they shall still remain in Aranjuez a reasonable time, to receive from him such propositions on the part of his catholic majesty for the amicable adjustment of all subsisting differences, and other objects of interest, depending between the United States and Spain, as he may think proper to propose. With such propositions, should any be made, they will be happy to receive any illustration of them, which his excellency may be disposed to give. But it is proper to add that they consider it incompatible with their duty, to proceed in the discussion of the subject, or any part of it, until those propositions which are again invited, are presented to them: that they cannot view his continuing to withhold them, in any other light than as an explicit declaration that the further pursuit of the object of their mission is unacceptable to his catholic majesty. It may indeed be thought, that after having possessed his excellency with the propositions of their government, they compromised its character, by proceeding in the discussion in any mode, before they received his in return. To that proceeding they were prompted by a spirit of conciliation, which may justify it to a certain stage. Should they however persist in it, after what has passed, they would forfeit all claim to that apology.

In inviting again propositions of his catholic majesty for the amicable adjustment of the points depending between the two nations, the undersigned have the honor to repeat to his excellency, the assurance that they will receive them with the high consideration which is justly due to them. The sentiments of the government of France have been communicated on two points which grow out of the treaty between the United States and that power. The sentiments of one party to a treaty, as is well known, cannot affect the rights of the other, in points which arise between the parties themselves; much less in those which have reference to a third power unconnected with it; nor ought they to influence its judgment, if the other party is an independent power, as the United States are. This principle which is invariable, is more especially sound in the cases referred to, for the reasons which have been heretofore given. The sentiments however of his majesty the emperor of France on those or any other points, in which the United States are interested, especially such as grow out of their treaties, are entitled to much consideration on their part. The undersigned have not failed to bestow it on those, which have been communicated to them by his excellency, as have been shown by their replies. They shall also be ready to show it, in the treaty they are desirous of forming with his catholic majesty, so far as a due regard to the rights of the United States and their indispensable duty will permit. The propositions which the undersigned had the honor to present to his excellency on the 23th January last, which embrace the whole subject, are in their judgment founded, in every particular, in the strictest principles of justice.

They are such as the President ordered them to propose; they are such as he expects that his catholic majesty, from his known regard to justice, will not hesitate to adopt. They think proper however to add that in receiving the propositions which his catholic majesty may make for the amicable adjustment of those important concerns between the two countries, should any be made, and a difference in opinion appear on any point, they are disposed to do every thing to conciliate an agreement which their instructions will permit. It is the sincere desire of their government to adjust amicably, at this time, with his catholic majesty, all these high concerns, in a firm belief that the interest of both countries would be essentially promoted by that result. To accomplish it, the undersigned will omit nothing on their part, which it is in their power to do.

The undersigned have the honor to inform his excellency, that they expect an early answer to this communication, and that by it will their future conduct be governed. They consider the negotiation as essentially terminated by what has already occurred, and if they pursue it, it will be only on the proof of such a disposition on the part of his catholic majesty's government, as shall convince them, not only that all form and delay will be dispensed with, but that there is just cause to conclude that it will terminate to the satisfaction of the United States. Having acquitted themselves, in every particular, to what was due to the just, the pacific, and friendly, policy of their government, it remains that they should not be unmindful of what they owe to its honor, its character, and its rights. If his catholic majesty is disposed to adjust these important concerns, by an amicable arrangement between the two powers, on fair and equal terms, it may be easily and speedily done. Each party knows its rights, its interests, and how much it ought to concede, in a spirit of conciliation, to accomplish the objects of the negotiation. The undersigned feel the force of that sentiment, and will not fail to respect it. Should his catholic majesty's government however think proper to invite another issue, on it will the responsibility rest for the consequences. The United States are not unprepared for, or unequal to any crisis which may occur. The energy which they have shown on former occasions, and the firmness of their past career, must prove that in submitting with unexampled patience to the injuries of which they complain, and cherishing with sincerity the relations of friendship with his catholic majesty, no unmanly or unworthy motive has influenced their conduct.

The undersigned request, &c.

(Signed)

CHS. PINCKNEY,  
JAS. MONROE.

No. 20.

*Don Pedro Cevallos to Messrs. Pinckney and Monroe.**Aranjuez, April 9, 1805.*

GENTLEMEN,

In my letter of the 21st February, and 14th March, I had the honor to explain to your excellencies the incontrovertible reasons on which his majesty founded his right to West Florida. I showed to your excellencies, among other things, that the United States could not pretend to more right nor to more extent of territory than France had acquired by the treaty of St. Ildefonso: And that confessing, as France confessed, that she had not acquired, or thought of acquiring, by the said treaty, territory eastward of the Iberville, neither could she transmit to the United States any right over it.

Besides what I have said in the said notes, I consider it as indispensable to hand to your excellencies the adjoined copy of a note, which the minister of exterior relations has addressed to the charge d'affaires of his majesty at Paris, under date of the 26th ultimo,\* showing in the most positive terms that France neither acquired any territory to the east of the river Iberville, nor has transmitted any to the United States; which declaration ought, in my opinion, to remove the most remote idea of doubt upon the subject, as very pointedly observes the minister of foreign relations of France, "faire connoitre les droits que la France avoit aquire c'est indiquer l'etendue et les limits de ceaux qu'elle a transmis au government federal."

It not being possible, in my opinion, to contradict the evidence of this proof in favour of the rights of his majesty over West Florida, it will be conformable to the good faith of both governments, and contribute very much to facilitate the course of the present negotiation, that it should be considered as established between us, and as indubitable, that the United States have not acquired any right to West Florida. Being about to enter immediately into the examination of the western limits of Louisiana, it cannot do less than embarrass the course of the discussion, to leave behind and still depending a point which has been proved even to demonstration. The acknowledgment of the right of his majesty over West Florida, by the American government, which was not more than an act of rigorous justice on their part, will facilitate and simplify very much the course of a negotiation, which has for its foundation the good faith of both governments, and their wish to terminate their differences.

I renew to your excellencies the testimony of my distinguished consideration, &c.

(Signed)

PEDRO CEVALLOS.

P. S. April 10th. After writing and signing this I received the esteemed letter of your excellencies, of yesterday, to which I will answer as soon as possible.

\*Communicated to Congress 14th March, in the correspondence of Don Luis de Onis.

## No. 21.

*Messrs. Pinckney and Monroe to Mr. Cevallos.*

*Aranjuez, April 12th, 1805.*

SIR,

We have the honor to acknowledge the receipt of your excellency's note of the 6th, with an extract of one from the minister of foreign relations of France to the charge d'affaires of Spain, relative to the eastern limits of Louisiana.

Having had the honor to inform your excellency, in our note of the 9th, that we considered the negotiation as essentially terminated by the disposition which his catholic majesty's government had shown, and the part it had acted in it, and that we deemed it incompatible with our duty to proceed in the discussion of the subject, or any part thereof, until we were furnished with his catholic majesty's propositions for the adjustment of the whole business, we have only to refer, in reply to this communication of your excellency, to what was stated in that note, on the most solid reasons. As soon as your excellency complies with that request, we shall endeavor by all the means in our power, in the sentiment expressed in that note, to manifest the high respect of the United States for his majesty, the emperor of France, and their disposition to conciliate in the treaty they are desirous of forming with his catholic majesty, the mutual interest of both countries.

We repeat our desire to be furnished as soon as possible with your excellency's propositions, which have heretofore been so often requested in vain, for the adjustment of all the points that are depending between the two nations. If it is the disposition of his catholic majesty's government to meet in this negotiation the friendly advances and overtures of the United States, there can be no motive for longer delay. But if the contrary continues to be shown, we shall hasten to withdraw from a situation, which, while it compromises the character of our government, cannot be agreeable to ourselves.

We beg your excellency to accept the assurance of our high respect and esteem.

(Signed)

CHS. PINCKNEY,  
JAS. MONROE.

No. 22.

(Translation.)

*Mr. Cevallos to Messrs. Monroe and Pinckney.**Aranjuez, April 13th, 1815.*

GENTLEMEN,

Complying with my promise, I proceed to examine in this letter, the opinions of my government on the western limits of Louisiana, following the plan established from the beginning, proposed by your excellencies and adopted by me, to examine each of the points depending between us, and determining, as far as possible, our respective rights on each. But before I proceed to the question, I should be wanting in the respect I owe my own government, to those considerations to which my public character will not permit me to be inattentive, and also to that of which I believe I have not been undeserving in my private one, if I did not state to your excellencies my surprise, at reading your esteemed letters of the 30th March, and 9th of the present month. It is only fifteen days since I had the honor to write to your excellencies my last note relative to the eastern limits of Louisiana, to which your excellencies did not find it convenient to answer except in the general terms, that we did not agree, and that we would pass to the other point of the western limits of Louisiana; and on the 30th March, notwithstanding my promise and my word given, that I would treat the last depending point as I had done the rest, your excellencies supposed that you ought to state to me, that my silence for those days had induced a belief in you, that I intended it as an intimation of my wish to end the negotiation. On a view of a discussion pursued with so much punctuality and activity on all the controverted points, it appears to me as more natural, not to say more just, that your excellencies should have believed that the nature itself of the point, I was about to treat, or the indispensable occupations of my ministry, might have occasioned the delay, than to suspect that I wished to put an end to the negotiation, thereby breaking my word which I had pledged. My delicacy not permitting me to suffer such a suspicion to remain in the breasts of your excellencies, I stated in my letter, of the 31st ultimo, the sensibility which this had caused me, the motives which had prevented my writing more quickly upon the point of the western limits of Louisiana, and lastly, I reiterated my promise to do so with all the despatch possible.

Notwithstanding this, your excellencies have thought proper in your note of the 9th, to insist upon what you call, my omission, and say, that the ministry of his majesty intend to cease the discussion entirely, with other assertions to the same effect, which cannot do less than make me feel very much, both as they respect my public and private character.



In answer to all these, I shall confine myself to only stating to your excellencies, that the nature of the point itself, which I am about to treat, has been the cause of the small delay which I have had the misfortune to have so unfavourably interpreted by your excellencies.

The question upon the western limits of Louisiana is not a point which can be examined or discussed, upon viewing one or two documents, or other pieces of a kind which may be possessed, at the first view. To treat this point with exactness, it is necessary to examine a collection of plans and documents and historical relations, which include a space of more than one hundred and fifty years.

These documents are not to be found in the department under my care; many of them belong to the department of the interior, besides those which are in the viceroyalty of Mexico. It has been necessary to search and examine those which are here, and to give them a certain classification.

It was my intention to form a memoir which should comprehend all the most important topicks, accompanying them with the necessary maps and plans, and handing them to your excellencies, being anxious to make the opinions of my government appear with all the exactness, which the nature of the subject would permit; but the manner in which your excellencies express yourselves, in your said letters, is a sufficient excuse for me to alter my plan, and reduce it to a few pages, that I may not still lengthen a delay which has given rise to such disagreeable suspicions.

The western limits of Louisiana never having been fixed, in the exact manner which can be done in territories, sufficiently peopled, and of small extent, it ought, necessarily, at the time of fixing them, to be the object of a negotiation, in which both parties should be agreed, as to the principal bases, and by a commission of limits, which should regulate themselves by those bases, in fixing the demarcation.

The principle which ought to serve as a rule for the establishment of the said bases, cannot be any other than the knowledge of the possession, which each party had acquired in these territories, and the different establishments made by each in the said places, by the Spaniards, in the province of new Spain, and also those belonging to Louisiana, drawing a line which shall divide the one from the other side, and continuing it by the most natural points of demarcation possible. It results from this principle, that the examination into the above named limits, is in a great degree historical, as it treats of the fixing the origin of many Spanish establishments, of the interior provinces of the French establishment of Louisiana.

If it had been proper to enter into a detailed examination at present, I would make a succinct historical detail of the Spanish establishments in the interior provinces of new Spain; but not to molest your excellencies, with details that may be inconvenient at present, I will confine myself to saying something on the province of Texas, bounding on Louisiana, upon the demarcation of which depend the

present questions. The province of Texas, where the Spaniards have had settlements from the seventeenth century, bounds by the east with Louisiana, and contains the extensive country which lies between the river Medina, where ends the government of Coaquila, to the post now abandoned, of Nuestra Senora del Pilar, of the Adaes, which is distant a few leagues from the fort of Natchitoches, 20 leagues from the mission of Ais, 40 from that of Nacogdoches, 150 from the abandoned post of Orquisau, 200 from the bay of Espiritu Santo, and 40 from the post of St. Antonio de Bejar.

It is beyond all doubt, that in the year 1689, by a commission from the viceroy of Mexico, the marquis de Moneloua, captain Alonzo de Leon, who was then governor of the province of Coaquila, went to examine the bay of Espiritu Santo, and the river St. Mazers which empties into it, to whom the Indian chief of Texas presented himself, in the most friendly manner, and in 1690, he took possession of the territory and founded the mission of St. Francisco of Texas.

By a royal order of his catholic majesty, November 12th, 1692, they ordered new discoveries to be made in the said province, by land and sea, which was, in consequence, then executed, and among other things, they undertook the examination of the river Codachos. Twenty-two years after, the duke of Linares, being then viceroy of Mexico, introduced from Louisiana, as far as the Spanish post of St. Juan Baptista, a Frenchman, Louis St. Denis, and three other Frenchmen, from Louisiana, with passports from the governor of Louisiana to buy cattle in the Spanish missions of Texas; which Frenchmen were carried to Mexico, and then the fourth expedition was resolved upon to Texas, naming as chief of it the Alferez, Don Domingo Ramon.

The expedition was received with inexpressible friendship by the Indians; and the captain, Ramon, named chief of the said Indian nations, and also son to the governor of Texas, and he left there, founded, the four establishments and missions of St. Francisco, la Purissima Conception, St. Josef, and Nuestra Senora de Guadaloup, situated seven leagues from Natchitoches.

By the royal order in 1719, they made various alterations in the command of the Spaniards employed in the province of Texas, and a little after died the said captain Ramon, in the post of St. Juan de Baptista on the river Grande.

War having broke out between Spain and France during the regency of the duke of Orleans, the French attacked the Spanish mission of Adaes, and its inhabitants were transferred for the moment, to the post of St. Antonio de Bejar. But the viceroy of New Spain, the marquis de Valero, accepted the generous and honorable proposal which the marquis St. Michael de Aguago, made, offering his purse and person to dislodge the French of what they had unjustly seized and occupied, and to make war upon them.

On being named governor general of the new Philipines, or province of Texas, and of new Estremadura, the marquis of Aguago raised 500 dragoons and two companies of cavalry, and undertook his march for the province of Texas in 1719, and without opposition arrived at the Adaes, the French having returned to the post, Natchitoches.

The king of Spain being informed of this expedition, and the recovery of the province of Texas, determined to fortify it, and that all hostilities should be suspended against the French.

The marquis de Aguago re-established the other missions, and founded other establishments, among them the posts of Nuestra Senora del Pilar de los Adaes, that of Loreto on the bay of Espiritu Santo, that of Dolores which is now known by the name of Orquisau, and improved the situation of St. Antonio de Bejar, by placing the establishment between the rivers of St. Antonio and St. Pedro. The province of Texas being thus at peace and re-established and increased, the marquis of Aguago solicited the re-union there, of 200 Tlascalan families, and as many from Galicia, in Spain, and the Canaries, and with some of these families, the King having agreed that 400 families should go from the Canaries, they peopled the village of St. Fernando close to the post of Bejar.

At the end of the year 1730, the Spaniards undertook several expeditions from the post of Bejar towards the north of the said province, on account of a disagreement with the Indians. In 1758, the Indians made an attack from the northern part on the post of St. Saba, and killed some soldiers and priests, on which account a detachment was ordered against the said Indians, under the command of colonel Dn. Diego Ortiz de Parilla.

A little after it was determined to organize a general and uniform establishment of posts to cover the interior provinces of new Spain, and they ultimately gave a commission to the marquis de Rubi to go and revisit and examine their state; and the result of this commission, which it appeared lasted some years, was, that on the 10th September, 1772, the regulation of posts had so extended itself as to establish a cordon of them from the coast of Senora to the bay of Mexico, where was situated the bay of Spiritu Santo, there being then in the province of Texas, those of St. Antonio de Bejar and that of the bay of Spiritu Santo, having neglected that of Orquisau and that of Nuestra Senora de los Adaes, which were no longer useful, as Spain was then the mistress of Louisiana.

From this simple and short explanation of those notorious and authentic facts, to prove the truth of which, we find the most incontestable documents, supported by uninterrupted possession, results evidently the antient and exclusive right which the Spaniards have to the province of Texas; that the possession of the province of Texas was acknowledged and respected by the French while they possessed Louisiana, and that the said province is belonging, and has always belonged, to his majesty.

That claim must be extremely illusory and unfounded which shall attempt to carry the western limits of Louisiana to the Rio Bravo, including therein great part of the interior provinces of New Spain, acquired and established at the cost of the treasures of Spain, and the blood of her subjects, as has been proved to demonstration in the case of Texas, and can be strengthened, more and more, by a continued series of events and proofs relative to the said province of Texas, and others of the interior provinces of new Spain, and also the acts and dates now existing respecting this subject. There are also many despatches, maps, and documents respecting this question to be found in the viceroyalty of Mexico, which is the principal centre of authority for all these provinces. On my part I have read with the greatest attention, the memoir on the limits of Louisiana, which your excellencies enclosed me in your note of the 28th January, anxious to see, if any thing could be found to support or give a color to the claim of the United States to carry their limits to the Rio Bravo; but the said memoir goes principally to treat of the establishment of Louisiana. I only find that your excellencies support the claim first in a gratuitous supposition that the coast belonged to France, a supposition which is contradicted by the most positive acts and dates above mentioned, by which it is proved that the province of Texas, and its coast, are belonging to the dominions of his majesty. And in the second place, in the general terms of the patent granted by Louis the XIV, in September, 1712, in favor of Anthony Crozat, granting him the exclusive commerce of the country of Louisiana, whose extent was, as your excellencies understand it, with all the waters which, directly or indirectly, discharge themselves into the Mississippi and the countries which they water. It would be very easy to make it appear that the most exaggerated claims of France never had the extent which your excellencies wish to give to Louisiana on this side; but even if they should have had such claims, or France should positively have tried to include, under the name of Louisiana, the territories which his catholic majesty possessed, what right or claim could be founded in a document which Spain never has recognized, nor does recognize, and which never could prejudice, in any manner, her acquired rights? The answer of Spain, on this occasion, is as simple as just—that if Louis the XIV, or the government of France, exceeded its power in granting territories, or rights over territories, which were not their own, or which Spain claimed possession of, or property in, that grant ought to be considered as null, as far as it extended over these territories, and that it flowed, without doubt, from the total ignorance which prevailed in those days, with respect to the geography of the territories situated at a little distance to the west of the Mississippi, and of the establishments of the Spaniards in those parts. More ancient, and proved by repeated acts of possession, than the aforesaid patent of Louis the XIV, is the royal order of the 12th November, 1692, already cited, by which his catholic majesty ordered them to make new expeditions to the Texas;

and the same are the other authentic acts and establishments of the Spaniards in that quarter. The limits between Louisiana and the Texas have been always known, even when the French possessed Louisiana. Near the beginning of the last century the venerable Margel, of the order of St. Francisco, founded, in the province of Texas, towards the confines of Louisiana, different missions, among them, that of Nacogdoches; and a few years after, he wrote and it was generally known in the writings of those times, that the province of Texas or new Philipines had its boundaries about the middle of the Gulf of Mexico to Poncenes, the Rio Grande to the west and to the east Louisiana. Depending on Louisiana, we find upon the river Colorado, which discharges into the Mississippi, the post of Natchitoches, which the French took from Spain. But at seven leagues from this you find the aforementioned post of Nuestra Señora de los Adaes belonging to the province of Texas, and it is undoubted that the baron de Ripperda, being governor general of this province, and successor of Dn. Angel de Manos, appears to have made treaties and conventions with the Indians of the same province of Texas, stipulating that the Spaniards might make among them such establishments as they pleased, acknowledging from that time as depending on the province of Texas, the Indians, Styces, Naugdoches, Asinaes, Nabadacues, Vidais, Orquisaus Malayes, Ocuanes, Tancaques and Apaches. To the year 1770, there always was in the fort of the Adaes, from the time of its establishment, a competent number of Spanish soldiers, and the same in that of Orquisaro and St. Saba, and it was not until the year 1773, that the Lieutenant Dn. Josef Gonzales, evacuated the post of Adaes whose garrison was no longer necessary, as Spain possessed Louisiana.

It follows, therefore, that the boundary between the provinces of Texas and Louisiana, ought to be by a line, which beginning at the Gulf of Mexico, between the rivers Carecut or Cascasiu, and the Armenta or Marmenõa, should go to the north, passing between the Adaes and Natchitoches, until it cuts the Red River; and, as from this point the limits which ought to be established on the northern side are doubtful and little known, it appears indispensable to refer them to the prudent investigation of commissioners to be named by both parties, in order that they, viewing the territory, and having with them the documents and dates that will be given them, rectifying what ought to be rectified, and furnishing the necessary light to both governments, upon limits which have never been fixed or determined with exactness, may be thus enabled them to fix the demarcation completely conformable to the wishes of both.

With these ideas, the government of Spain, ever since it had definitively fixed the retrocession of Louisiana to France, named a commissioner of limits, destined to complete this important object jointly with the commissioners France might think proper to name on her part. In the same manner, it appears to me indispensable to do this now, if the demarcation is to be made with the necessary exactness, and that the United States naming on their part a commissioner of

limits, they should proceed by common accord, and make upon the territory the investigation which may be necessary. It is more than a year that the brigadier general the Marquis de Casa Calvo, and the engineer Don Josef Martinez, have, with a sufficient number of persons to form the said commission, on the part of his catholic majesty, been waiting in New Orleans the arrival of the commissioners of the United States, to begin their labors. It is only after the researches and investigation of the commissioners of both parties, furnished with such instructions as may be proper, that we can pursue the exact demarcation of limits, which, never before having been fixed with the requisite exactness, cannot now be determined upon with prudence, but upon a view of the territory, and having present the dates and documents necessary to illustrate the subject. Although upon this point of the western limits of Louisiana, I could have extended myself much more in detail, and accompanied my illustration with maps and documents, my wish to answer your excellencies on this point with promptitude, prevented me; I, however, reserve to myself the power of doing so hereafter, should it be necessary. I hope your excellencies, on viewing what has been urged on this point, will please to state to me your opinions upon this subject, and that you will acknowledge, that as well in it as in the whole course of the negotiation, I have not deviated a jot from the principle proposed by your excellencies in your first letter of the 28th January, and adopted by me in that of the 31st of the same month. "Each of the points depending between the two governments ought to be examined impartially, and all motives of complaint and inquietude, considered and terminated amicably; to do which, &c."

As I had the honor to state to your excellencies in my letter of the 5th March, and believe it indispensable to repeat here, on perusing the contents of your excellencies letters, of the 30th March, and 12th April, I cannot but still consider it as premature to enter upon the forming of projects for a convention on the whole, or upon the aggregate of the depending points, without analysing them first, at least to a certain point, and without fixing the rights of each country as far as possible; because, as your excellencies must know extremely well, before we can proceed to a convention on the whole, it is necessary to know, as far as possible what are the rights and obligations of his majesty, and what are the rights of the United States, and their objections; which knowledge, by detail, ought to be the foundation of the negotiation, it being clear, that according to the extent which we believe the right and obligations of the one and other party ought to be, so ought the convention upon the whole to be the more or less extensive.

I hope to have the honor of receiving your excellencies' answer on the point which is the object of this letter, and reiterate to you the demonstrations of my distinguished consideration, &c.

(Signed)

PEDRO CEVALLOS.

## No. 23.

*Messrs. Pinckney and Monroe to Don Pedro Cevallos.*

*Aranjuez, April 20th, 1805.*

SIR,

We had the honor to acknowledge the receipt of your excellency's note of the 13th, to which we hasten to give a reply. It is not without much surprise, that we find by it that your excellency should have construed the apprehension which we expressed in our note of the 30th ult. that you intended by your silence, in not answering ours respecting the western limits of Louisiana for so long a term, to intimate a desire to terminate the negotiation at that point, as conveying any unfavorable imputation to your excellency, either in your public or private character. We do not hesitate to disavow any such intention, and to assure you, that nothing was more remote from our views. In making this frank declaration, we must be permitted to add, that we do not think that that note, or any other that we have written, ought to have had such an interpretation. We are persuaded, that in all negotiations, each party has a right to terminate that in which it is engaged, whenever it thinks proper, and that it is responsible for so doing to its government alone. This right seems to be incident to the very nature of such transactions, and not to be restrained by any promise made in the commencement or afterwards by either party, of what it proposes to do in the sequel, in respect to the mode of prosecuting it. Such promise must always be made on the idea, and be so understood by the other party, that the negotiation will be continued. It can never be construed in such a manner as to compel the party to continue it, in case any thing should occur to make it improper in its judgment so to do. It was in this light that we considered your excellency's promise, and were, therefore, far from supposing that in making the inquiry which we did, under existing circumstances, we violated any rule of decorum or delicacy. Whether there was sufficient cause for the impression we had taken in that respect, we will not pretend to say. It is, however, most certain, that we thought there was, and for the following reasons: 1st. Because unusual delay had occurred since our last communication, which we could not otherwise account for. 2d. Because as your excellency had repeatedly insisted on the relinquishment of the claim of the United States on Spain, to compensation for French spoliations within her limits, and seemed in your note of the 15th, to make the continuance of the negotiation dependent on that issue, we were naturally led to suspect, on our repeating the assurance that we were decidedly of a contrary opinion, and could not abandon the claim, especially after so long an interval, that you had come to that resolution. Having this view of the subject, we did not know but that your excellency had

adopted that mode of making known to us the views of your government, as the one which was deemed most suitable to the purpose, and had even expected such an application on our part, to lead to a more full and explicit declaration of them. In making the application, which we did with regret, we followed no rule, but were governed by an impulse which the occasion excited, and we trust merits to be considered as an honorable one; one to which your excellency has shown too great a sensibility, or you would not have so much misconstrued our meaning. We repeat, therefore, that we neither intended, nor do we think that any of our letters ought to be construed, to convey any imputation unfavorable to your excellency in your public or private character, for which we renew the assurance of our high consideration and respect.

Our note of the 9th instant, (for that of the 12th was only founded on it,) was intended as a justification of the part, which, under existing circumstances, we deemed it our duty to take. We intended it as a justification of our conduct equally to his catholic majesty's government and our own. We were of opinion, for the reasons therein stated, that as there was no prospect of obtaining an accord on such terms as our government thought reasonable and just, and as our government and ourselves were compromitted by the manner in which the negotiation continued to be conducted, that it was not only useless but highly improper for us to pursue it. It is usual in all negotiations, especially in important concerns, for one of the parties to present to the other a project of a treaty or convention for the arrangement of the objects in contemplation, founded on his instructions; and to receive from the other party a like one in return, in case any difference of opinion, on any point, appeared between them. It is by an exchange of such projects that the views of their respective governments are seen, and each party is enabled to determine at once whether there is any prospect of an agreement, and to act accordingly; it is by such exchange that the points of agreement and difference between them are shown, and that the topics of discussion are distinctly marked, in case the negotiation is carried to that length; it is in short by it, and by it alone that the basis of the negotiation is formed, and the parties to it placed on equal ground. Whenever this rule is departed from, it must be to the disadvantage of the party, whose case forms an exception to it. It is in the power of the other to continue the negotiation, as long as he things fit, and finally to break it off, if he is so disposed, on his own terms. When we did ourselves the honor to present to your excellency on the 28th of January our project of the arrangement of the points in question, with our note explanatory of it, it was in the expectation that we should have received a counter one in return, in case its conditions were not approved, with a note explicit to every point. We do not say that an express agreement to that effect was entered into: but as it was agreed that we should commence the negotiation in that mode, and as it was known to be the established usage in such cases, we concluded that



the business would necessarily take that course. In that expectation however we were disappointed in both respects. It was perhaps our duty to have declined proceeding in the negotiation until we were furnished with such a communication, and had we done so, we presume it could not have been refused. By proceeding in it as we have done, in the mode adopted by your excellency, we were governed, as heretofore observed, by a spirit of conciliation, in the belief that in that mode we should obtain the same end, without any essential difference in point of time. In this latter respect we were also disappointed. Your excellency has repeatedly observed that you had followed the mode which we had recommended; but you will permit us to remark that in this respect your excellency has altogether misapprehended our idea, in one of its most important features. We said it is true, in our first note, that it was proper to ascertain the rights of each nation on each point, and we still say so. But did it follow from thence that we were willing to dispense with the ordinary mode of proceeding in such cases? With a just claim to a counter project or to propositions from you government? Did we consent to a mode of discussion in which each point should be made the subject of separate notes, and that these should be subdivided and each subdivision become so? A mode which tended to create unavoidable delay. Most certainly nothing can be found in any communication from us, which gives the slightest sanction to such a mode of proceeding. It differs altogether from that which we expected would have been pursued in the negotiation, it is contrary to that in which we commenced it, and it has been the subject of serious and frequent complaint on our part since. It was after we saw with regret that three months had been thus consumed without effect; that unusual and unexpected delays had taken place in the discussion, which seemed likely to be protracted to an indefinite length of time; that no basis of the negotiation was laid; no propositions were presented, though often requested with as much earnestness as delicacy would permit; and that to those which we did ourselves the honor to present, we were answered, not in a spirit of accommodation, but with demands that we should surrender unconditionally the just claims of our government in some of the most important points, that we wrote that letter. To a situation so improper it was impossible for us to remain longer insensible. We could not but recollect, independent of the justice of our pretensions, that some consideration was due to the friendly and respectful advance that was made by our government; that special missions in their nature require despatch, and generally receive it; that on former and important occasions those of the United States had received it, from France, Spain and Great Britain; that to the present one, by many causes, the public sensibility had been much excited, and that our government waited with anxiety the result; in addition to which that one of the parties to it was the representative of the United States at another court, where their interests suffered by his absence. It was on a full view of these circumstances that that

measure was taken, circumstances which appeared to us to be too imperious to leave any cause for hesitation. In writing the letter we meant as already observed, to vindicate our own conduct to both governments. We did not mean in the slightest degree to call in question the right of his catholic majesty's government to manage the negotiation, or to conclude it, in such mode as it thought fit. We only claimed to ourselves a right to withdraw from it, and report the result to our government, when it appeared to us impossible, after making due exertions, to accomplish the objects of our mission.

In our letter of the 9th, we invited again your excellency's propositions, which have not been furnished. Your excellency has, however, furnished us with your observations on the last point of discussion, that of the western limits of Louisiana, by which the negotiation approaches a conclusion in its ordinary form, by treaty or otherwise, which your excellency seems desirous to give it. Our wish has been invariably the same on this point, and we now feel ourselves called on to give a new and signal proof, under existing circumstances, of our disposition to conciliate. Anxious to adjust at this time the subsisting differences, and to place the relations of the two countries on a basis of permanent friendship, by arrangements founded on their common interest, we will not put to hazard those great concerns, by any act which may possibly impute the failure to us. Influenced by these considerations, we shall proceed to discuss this last point in reply to your excellency's note, although the propositions have not been furnished, in the expectation that after the discussion on this point is finished, as we trust it hereby will be, we shall experience on your part an equal co-operation to conclude the negotiation itself, with the utmost promptitude.

We have gone thus into detail, to place in its true light the part we have acted in these concerns, and the motive of it. The present negotiation naturally forms an interesting epoch in the political relations of the two powers; and it is important to the United States that it should be seen that nothing was omitted on their part, which was due to the claims of justice and good neighborhood on the part of his catholic majesty.

In examining the question respecting the western limits of Louisiana, we are to be governed by those facts and principles which would have been applicable to France, had she never parted with the province. All the rights which she formerly possessed over it were restored to her by the treaty of St. Ildefonso, and by her transferred to the United States by that of Paris, 1803. To ascertain these, it is necessary to go back to that epoch, when the river Mississippi, with the waters which empty into it, and when the bay of St. Bernard, were first discovered. The boundary to the west was never traced by an exact line of demarcation between that province and the possessions of Spain; and in settling it at this day, the same principles and facts must govern as if it had been then made.

The facts which are material in the case, are such as relate to

the discovery and possession of the territory referred to, by the subjects and under the authority of each nation. The principles are those which have been recognized by European powers in similar transactions, and which of course ought to govern in the present one. It is by a correct view of the material facts, and the faithful application of these principles to them; that the rights of each nation will be established in this point, and thereby the boundary between them.

By the memorial which we had the honor to present to your excellency on the 28th January last, the epoch of the discovery of the Mississippi and the waters which empty into it, and of the bay of St. Bernard, and of the taking possession of the same, and of the country dependent thereon, is proved by documents which cannot be questioned. By these it is established in respect to the Mississippi, its waters and dependent country, as low down the river as the Arkansas, by the Sieurs Joliet and Marquette, from Canada, as early as the year 1673, and to its mouth by the father Hennepin, in 1680, and by de la Salle and Tonti, who descended the river with 60 men to the ocean, and named the country Louisiana in 1682, and in respect to the bay of St. Bernard in 1685. This was done at those periods in the name and under the authority of France, by acts which proclaimed her sovereignty over the whole country to other powers, in a manner the most public and solemn, such as making settlements and building forts within it. Of these it is material to notice in the present inquiry two only, which were erected in the bay of St. Bernard on the western side of the river Colorado, by M. de la Salle, who landed there from France with two hundred and forty persons in 1685. It was on the authority of the discovery thus made, and of the possession so taken, that Louis the 14th granted to Anthony Crozat, by letters patent, bearing date in 1712, the exclusive commerce of that country; in which he defines its boundary, by declaring that it comprehended all the lands, coasts and islands which are situated in the Gulf of Mexico, between Carolina on the east, and old and new Mexico on the west, with all the streams which empty into the ocean within those limits and the interior country dependent on the same. Such are the facts on which the claim of France rested; such are those on which that of the United States now rests.

The principles which are applicable to the case, are such as are dictated by reason, and have been adopted in practice by European powers in the discoveries and acquisitions which they have respectively made in the new world. They are few, simple, intelligible, and at the same time founded in strict justice. The first of these is, that when any European nation takes possession of any extent of sea coast, that possession is understood as extending into the interior country, to the sources of the rivers emptying within that coast, to all their branches, and the country they cover, and to give it a right in exclusion of all other nations to the same. See *Memoire de l'Amerique*, page 116. It is evident that some rule or principle must govern the rights of European powers in regard to each other, in all

such cases: and it is certain that none can be adopted, in those to which it applies, more reasonable or just, than the present one. Many weighty considerations show the propriety of it. Nature seems to have destined a range of territory so described for the same society; to have connected its several parts together by the ties of a common interest, and to have detached them from others. If this principle is departed from, it must be by attaching to such discovery and possession a more enlarged or contracted scope of acquisition; but a slight attention to the subject will demonstrate the absurdity of either. The latter would be to restrict the rights of an European power, who discovered and took possession of a new country, to the spot on which its troops or settlements rested: a doctrine which has been totally disclaimed by all the powers who made discoveries and acquired possessions in America. The other extreme would be equally improper: that is, that the nation who made such discovery should, in all cases, be entitled to the whole of the territory so discovered. In the case of an island, whose extent was seen, which might be soon sailed round and preserved by a few forts, it may apply with justice; but in that of a continent it would be absolutely absurd. Accordingly we find, that this opposite extreme has been equally disclaimed and disavowed by the doctrine and practice of European nations. The great continent of America, north and south, was never claimed or held by any one European nation; nor was either great section of it. Their pretensions have been always bounded by more moderate and rational principles. The one laid down has obtained general assent.

This principle was completely established in the controversy which produced the war of 1755. Great Britain contended that she had a right, founded on the discovery and possession of such territory, to define its boundaries by given latitudes in grants to individuals, retaining the sovereignty to herself from sea to sea. This pretension, on her part, was opposed by France and Spain, and it was finally abandoned by Great Britain in the treaty of 1763, which established the Mississippi as the western boundary of her possessions. It was opposed by France and Spain on the principle here insisted on, which of course gives it the highest possible sanction in the present case.

The second is, that whenever one European nation makes a discovery and takes possession of any portion of that continent, and another afterwards does the same at some distance from it, where the boundary between them is not determined by the principle above-mentioned, the middle distance becomes such of course. The justice and propriety of this rule is too obvious to require illustration.

A third rule is, that whenever any European nation has thus acquired a right to any portion of territory on that continent, that right can never be diminished or affected by any other power, by virtue of purchases made, by grants or conquests of the natives within the limits thereof. It is believed that this principle has been admit-

ted and acted on invariably since the discovery of America, in respect to their possessions there, by all the European powers. It is particularly illustrated by the stipulations of their most important treaties, concerning those possessions and the practice under them, viz. the treaty of Utrecht in 1713, and that of Paris in 1763. In conformity with the 10th article of the first mentioned treaty, the boundary between Canada and Louisiana on the one side, and the Hudson bay and Northwestern Companies on the other, was established by commissaries, by a line to commence at a cape or promontory, on the ocean, in 58 deg. 30 min. north latitude, to run thence south westwardly to latitude 49 deg. north from the equator, and along that line indefinitely westward. Since that time no attempt has been made to extend the limits of Louisiana or Canada to the north of that line, or of those companies to the south of it, by purchase, conquest, or grants from the Indians. By the treaty of Paris, 1763, the boundary between the present United States and Florida and Louisiana, was established by a line to run through the middle of the Mississippi from its source to the river Iberville, and through that river, &c. to the ocean. Since that time no attempts have been made by those states, since their independence, or by Great Britain before it, to extend their possessions westward of that line, or of Spain to extend her's eastward of it, by virtue of such acquisitions made of the Indians. These facts prove incontestably that this principle is not only just in itself, but that it has been invariably observed by all the powers holding possessions in America, in all questions to which it applies relative to those possessions.

The above are the principles which we presume are to govern in the present case. We will now proceed to apply these principles to the claim of the United States, as founded on the facts above stated relative to the discovery and possessions of Louisiana by France; and to designate the limit, to which we presume they are justly entitled by virtue thereof in the quarter referred to.

On the authority of the principle first above stated, it is evident that, by the discovery and possession of the Mississippi in its whole length and the coast adjoining it, the United States are entitled to the whole country dependent on that river, the waters which empty into it, and their several branches, within the limits, on that coast. The extent to which this would go it is not in our power to say; but the principle being clear, dependent on plain and simple facts, it would be easy to ascertain it.

It is equally evident by the application of the second principle to the discovery made by M. de la Salle of the bay of St. Bernard, and his establishment there on the western side of the river Colorado, that the United States have a just right to a boundary founded on the middle distance between that point and the then nearest Spanish settlement, which it is understood was in the province of Panuco, unless that claim should be precluded on the principle first above mentioned. To what point that would carry us, it is equally out of

our power to say, nor is it material, as the possession in the bay of St. Bernard taken in connection with that on the Mississippi, has been always understood, as of right we presume it ought, to extend to the Rio Bravo, on which we now insist.

In support of this boundary, we rely much on the grant of Louis the XIV, to Anthony Crozat in 1772. That grant, it is true, establishes no new right to the territory. The right had already accrued by the causes and to the extent already mentioned, which was never abandoned afterwards, except by the treaty of 1763, which does not affect the present question.

This boundary is also supported by the opinions of the best informed persons who have written on the subject, with which we have become acquainted. By an extract from a work on Louisiana written by the col. Chevalier de Champigny, in 1773, who, residing in the country, was doubtless well informed, the Rio Bravo is laid down as the western boundary of that province, p. 10. This fact is again asserted with more minuteness in his second note to that work, in which he states that Louisiana was bounded before the treaty of 1763, to the west by the mountains of New Mexico and the Rio Bravo. In a book containing several memoirs on different subjects, published about three years since at Paris, is one entitled a memoir historical and political on Louisiana by the count de Vergennes minister of Louis the XVI, in which it is stated that Louisiana is bounded to the east by Florida, and to the west by Mexico. The opinion of geographers in general confirms that of other writers. By a chart of Louisiana, published in 1762, by Dn. Thos. Lopez, geographer to his catholic majesty, it appears that he considered the Rio Bravo as the boundary of the province, as it likewise does by a chart of de L'Isle of the royal academy of sciences at Paris, which was revised and republished in 1782. Other evidences might be quoted, but it is useless to multiply them.

Having thus shown the principles on which the United States found their claim to the Rio Bravo as the western boundary of Louisiana, we will proceed to examine the claim of Spain which is opposed to it, as presented by your excellency in your esteemed note of the 13th instant. We find by it that all the facts relied on in support of the claim of Spain, relate to the province of Texas, the whole of which lies eastward of the Rio Bravo, and as we suppose within the limits of Louisiana. They amount to this, that at different epochs certain religious missions were established within that province, the first of which was in 1690: that in 1692, a royal order was issued, directing new discoveries to be made in it, under which the river Cadochos was explored: that in 1714, Louis St. Dennis, a Frenchman, with a passport from the governor of Louisiana, made a visit to Mexico, on some commercial projects, passing by the Spanish post St. John the Baptist, on the Rio Bravo, at which time, Dn. Diego Ramon was sent into the province of Texas, where he was well received by the Indians, among whom he then founded several religious missions, one

of them at a post within seven leagues of Natchitoches: that treaties were afterwards made with some tribes of Indians, who acknowledged their dependence on Spain: that during the regency of the Duke of Orleans, hostilities took place between the French and Spaniards, in which the former attacked the latter at Adaes, and broke up the establishment for a time: that in 1730, the situation of the post Antonio de Bejar was improved by the Marquis de Aguago, who settled a certain number of families in its neighborhood: that in 1755, hostilities took place with the Indians, who attacked the post of St. Saba, and killed some soldiers and priests, in consequence of which, a detachment was sent against them under the command of Don Diego Ortiz de Parrilla: that, after this, the Marquis de Rubi was empowered to organise a system of defence for the provinces of New Spain, which was completed in the year 1772. These, we believe, are all the facts stated by your excellency, on which we think proper to make a few remarks.

It is evident, as every fact above stated was posterior, and even by many years, to the completion of the title on which the United States rely, that if the principles by which they support their title are sound, there is not the slightest foundation for the claim of Spain to rest on. Every act of Spain, within the limits which it appears justly belonged to France, was an encroachment which the friendly relations between the two powers might authorize, in a wilderness, but which could give no title; that those acts were considered by the French in the light of encroachments at the time they were made, is proved by many facts and documents the most authentic. In respect to the Spanish post in the neighborhood of the Natchitoches, on which your excellency seems chiefly to rely, we beg to refer you to Col. Champigny's work, page 10th of his notes, by which it is stated, that the post which the Spaniards had established there, was on the territory of the French. We refer you, also, to Du Pratz's history of Louisiana, vol. 1, page 12, by which it appears, that the Spaniards were introduced there, under the auspices of the French, by Louis St. Dennis, to favor a contraband trade with Mexico, as that the favorable reception given by the Indians to Don Diego Ramon, was owing to St. Dennis, who was recognised by them as their great chief; prior to which year, it appears by the same author, that there was not an establishment of any kind east of the Rio Bravo, and only that of St. John the Baptist on the western bank of it. But the most authentic and conclusive of all proofs of the light in which these acts of the Spaniards were viewed by the French, is, that hostilities actually did take place between them respecting those posts; a fact which history has recorded, and your excellency admitted.

Your excellency has noticed in your statement, some concessions or acknowledgements made to the Spaniards by the Indians of their dependence on Spain; but these, it is presumed, could convey to her no title to the sovereignty of the territory, against France. The third principle relied on above, is conclusive to this effect. Within the

known limits of Mexico, there is a vast tract of vacant territory to the north, held and inhabited by the Indians. If any other power was to treat with and receive similar acknowledgements of the Indians in that quarter, would Spain admit that the sovereignty of the territory was thereby transferred from her to such power?

On this view of the subject, in which we have attempted to illustrate more in detail, but have added little to the contents of the memorial which we had the honor to present to your excellency on the 28th of January last, we rest the title of the United States to the Rio Bravo, as the western boundary of Louisiana. As every point has been thus fully discussed, we flatter ourselves that we shall now be honored with your excellency's propositions for the arrangement of the whole business. The country on both sides the Mississippi is yet a wilderness, and it is important to make those arrangements which mutual interests may require while it is so. As your excellency is possessed of the sentiments of our government on every point, it is unnecessary to add more than to repeat, that on receiving your excellency's propositions, we shall have every disposition to conciliate the views and interests of his majesty's government, which can be expected from the just and friendly policy of the United States.

We request your excellency to accept, &c.

(Signed)

CHS. PINCKNEY,  
JAS. MONROE.

*His Excellency Don Pedro Cevallos,  
First Secretary of State, &c. &c. &c.*

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No. 24.

*Messrs. Pinckney and Monroe to Don Pedro Cevallos.*

*Aranjuez, May 12, 1805.*

SIR,

Animated by the same friendly desire which has governed us since the commencement of the negotiation, and influenced by that which was expressed by your excellency in our interview last evening, we are willing to state the ultimate conditions on which we are authorized to adjust the several points depending between our



governments. With this view we do ourselves the honor to inform your excellency, that, on condition his catholic majesty will cede the territory eastward of the Mississippi, and arbitrate the claims of the citizens and subjects of each power, according to the convention of August 11th, 1802, we will make the Colorado the boundary between Louisiana and Spain, by a line to be run in the manner proposed in the project which was presented on the 28th January last, the United States ceding all right to any territory westward of that line; we will establish a district of territory of 30 leagues on each side of that line, or on the American side only, if preferred by Spain, to be run from the Gulf of Mexico to the northern boundary of Louisiana, which shall remain neutral and unsettled for ever; we will relinquish the claim to spoliations which were committed by the French, within the jurisdiction of Spain in the course of the last war, the United States undertaking to compensate the parties in a sum to be specified; and we will also relinquish all claim to compensation for the injuries which were received by the suppression of the deposite at New Orleans. Your excellency will, we are persuaded, see, in these propositions, a most unequivocal proof of the sincere desire of our government to meet the views of his catholic majesty in the points referred to, in a spirit of conciliation and concession, to place the friendly relations of the two countries, who as neighbors have so many and powerful motives to promote that object, on a basis never to be shaken. We have endeavored also to give the strongest proof in our power of our disposition to conciliate the views which have been expressed on two points by his majesty the emperor of France, since in case his catholic majesty adopts the propositions and cedes the whole of the country eastward of the Mississippi, we are willing to accept the cession of W. Florida from him, and in assuming the payment to our citizens of their claims for French spoliations by the United States, we make it, as we presume, in a great measure without any consideration whatever, as we consider the cession which we propose to make on the western side of the Mississippi in itself an equivalent for all the territory claimed by Spain on its eastern side. If these propositions are accepted, we have to request that your excellency will be so good as to notify us of it, that a convention founded on them may be concluded without delay. If they are rejected, we have then to request that your excellency will consider the United States as in no respect bound by them, and the whole subject as standing on the same ground, in any future negotiation, as if none such had been made. In either event, we have to request that your excellency will be so good as to give us an early and explicit answer to the same.

We request your excellency to accept, &c.

(Signed)

CHAS. PINCKNEY,  
JAS. MONROE.

*His Excellency Don Pedro Cevallos.*

P. S. We do ourselves the honor to enclose your excellency the two notes which we submitted to your view last evening, with our signatures.

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No. 25.

*Propositions to the Secretary of State of his Catholic Majesty.*

On condition that Spain will cede on her part the territory to the east of the Mississippi, and arbitrate her own spoiliations conformably to the convention of August 11th, 1802,

The United States will cede on their part their claim to territory west of a line to be drawn from the mouth of the Colorado to its source, and from thence to the northern limits of Louisiana, in such manner as to avoid the different rivers and their branches which empty into the Mississippi.

They will establish a territory of thirty leagues on both sides of this line, which shall remain unsettled forever, or of thirty leagues on their own side, if Spain desires to extend her settlements to the Colorado.

They will also relinquish their claim for French spoiliations, which amounts to one hundred and sixty-four vessels, by undertaking to satisfy the parties themselves, in a sum to be specified.

They will relinquish likewise their claim to compensation for the suppression of the deposite at New Orleans.

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No. 26.

*Mr. Monroe to the Prince of the Peace.*

*Aranjuez, May 14th, 1805.*

SIR,

As it is my duty to withdraw from Spain as soon as we receive his excellency Don Pedro Cevallos' answer, your excellency will permit me to transmit you a copy of our last letter to him. It is precisely in sentiment with our communication to your excellency; still as the answer which we may receive will draw the negotiation to a conclusion by treaty or otherwise, it is our desire to communicate to your excellency, as we have already done, every step which we have taken in the present concern, which is of so much importance to both countries. We are satisfied that the propositions which we

make for the amicable settlement of all the points depending between the two countries ought to be considered in regard to Spain, as being at least just. Our government is convinced that by a sound construction of its rights, the Rio Bravo is the western boundary of Louisiana, and we have no doubt, had France retained the province, that she would have insisted on that limit. The cession then which we propose to make of the great tract of country between that boundary and the Colorado, and the establishment within our remaining limits of thirty leagues of neutral territory to the eastward of it, are in our opinion worth much more to Spain than the whole of the territory eastward of the Mississippi, if it belonged to her by an indisputable title. But the island of New Orleans belongs to us, and West Florida is claimed by both parties; so that her territory there, in point of value, cannot be compared with the vast advantage which she would derive from the concession and arrangement which we propose to make on the western side. But when it is considered that we add to this, the relinquishment of the claim to French spoiliations within the dominions of Spain, which amounts to many millions of dollars, and also that for the injury arising from the suppression of the deposite at New Orleans, the advantage which she will derive from such an adjustment must be the more evident. It may be said that in these two latter points, the United States relinquish nothing, as Spain does not consider herself responsible for those injuries. But our government thinks otherwise, and we well know that the pretensions by which Spain resists our claim cannot be supported in either instance. In respect to the first, Spain will never say that she could not support her own authority within her own limits; that she was forced to yield to France: nor can she claim a benefit from a treaty made by another power, to which she was not a party, in which she was named, nor were the acts for which she was responsible contemplated. Indeed this latter pretension was not thought of till some years after the treaty, under which Spain claims an exemption, between the United States and France, was formed; most certainly not, till after the convention of August 11th, 1802, between the United States and Spain was signed, and then it seems to have been discovered as it were by accident; circumstances which prove that such a pretension cannot be supported before the enlightened world. And with respect to the suppression of the right of deposite at New Orleans, that act was an injury for which compensation ought to be made, as by the treaty of 1795, no interruption to that deposite, or one at some other place, was provided for. We cannot apply to France for the compensation; because Spain was in possession of the territory, the act was done by her intendant, and it was by her government that the deposite was again opened. Your excellency must be sensible that the United States can never abandon these claims, which they think so just, without being satisfied for them in some mode or other. We assure your excellency with confidence, that if we were capable of signing a treaty which did abandon them,

it would not be ratified. What mode then can be fixed on more honorable or advantageous to Spain, than that which is proposed, by which we are to satisfy them ourselves. With respect to the arbitration of Spanish spoliations, that is a question of a different nature, which has already been agreed on by a convention between Spain and the United States, and to which it is presumed that no objection is made. Your excellency will permit me to express myself with freedom to you, in a concern of such high importance to Spain, as well as to the United States. It is one to which you cannot be indifferent, since, be it settled as it may, it must involve, in a very high degree, your own character and glory. The high rank which you hold in Spain, and the influence which you enjoy in the councils of his majesty, will make your excellency, in a considerable degree, responsible for the consequences of what is done. Let me ask your excellency then, with that candor which has distinguished the whole of your conduct in the communications with which you have honored me, whether it is not important for Spain to adjust this business at this time, on fair and equal terms with the United States? Whether she will not hazard much in suffering the fair opportunity which is presented her, to be lost, these differences to remain unsettled, and the discontents and animosities which will naturally grow out of them in the United States, to exist and increase? Do the vast possessions which Spain holds to the south of us, admit of a valuation? Is there any standard by which that value can be estimated? Your excellency well knows their value, and how important it is to Spain to preserve them. What is the disposition of other powers relative to those possessions? Are there none who would be happy to wrest them from Spain, if a favorable opportunity offered? The United States are placed by the side of those possessions, are already powerful, and are daily increasing in power, by a march which cannot be impeded. Is it not well known, if hostilities should ever take place between the two countries, that the United States can do to Spain, in respect to those possessions, more injury than any other power on the globe? Is it not then for the interest of Spain to cultivate the friendship of those States, if not by a generous, at least by a just, policy? Ought she not to avail herself of this favorable opportunity to settle all differences, and to place their relations on a footing of perfect security to her, which she may do with so much advantage by the propositions which are made? Ought she even to wish better terms than are thus offered, since, in settling so great an object of national policy, the wisdom of the councils which dictates any adjustment, admonishes that to be effectual, it ought to be satisfactory to both the parties? Is the territory, which Spain holds to the eastward of the Mississippi, of any importance when compared with this object, especially when it is considered that it is surrounded by the possessions of the United States, that if a garrison is placed there, it must be nourished from us or starve, and that by weakening the force at the Havanna, which governs the Gulf of Mexico, or some other post which ought to be defended, all the great and

valuable possessions of Spain in America are endangered? Your excellency must likewise be satisfied, that as the United States are already established in the Gulf of Mexico, by a great extent of territory, the possession of that belonging to Spain to the eastward of the Mississippi, cannot essentially affect their situation in reference to Spain, while it will secure it from the danger of falling into the hands of any other power, an event which might prove of great injury to her. It is evident, that by ceding this territory to the United States, on fair conditions, Spain parts with what is of no real value to her; she protects it from the casualties of war and the more dangerous casualties of intrigue, and places it in a situation where it can never prove injurious to her. But what is still more deserving of attention, she secures, by an act of enlightened and liberal policy, the friendship of a power already distinguished, and rapidly rising to the first consideration; a power, whose friendship as a neighbor, it is of the first importance to her to preserve. It appears, therefore, to me, that this affair should be considered more in a political light than a financial one, and that the effect in a principal point, which Spain should contemplate by the cession, ought not to be diminished by permitting it to partake too much of the latter character. I wish these considerations to be weighed by your excellency, because they appear to me to be important to Spain as well as to the United States, and to be peculiarly so to your excellency, on account of the high responsibility which is inseparable from the distinguished rank and consideration which you deservedly hold in the government and councils of his catholic majesty.

I must be permitted to repeat to your excellency, that it is my duty to leave Spain, as soon as we receive his excellency Don Pedro Cevallos's answer to our last note. I have been here now near five months, engaged in this business, and we are bound by every consideration of duty to conclude it. Our government has failed in nothing which was due to the friendly relations subsisting between the United States and his catholic majesty. It is by a sentiment of high respect, with which your excellency's frank and candid conduct has inspired me, and a sincere desire to terminate the negotiation to the advantage of both countries, that I am prompted to make to you this communication in the present stage of it.

I request your excellency to accept the assurances of my high consideration and esteem.

(Signed)

JAMES MONROE.

*His excellency the Prince of Peace,  
Generalissimo of H. C. M.'s forces.*

*Aranjuez, May 14, 1805.*

No. 27.

*Don Pedro Cevallos to Messrs. Pinckney and Monroe.**Aranjuez, May 15, 1805.***GENTLEMEN,**

I have read with due attention your esteemed note of the 12th, and the propositions you have been pleased to make in the name of your government, reduced to the following: That Spain shall cede, on her part, the Floridas, and shall arrange the point of the claims of the individuals of both nations conformably to the convention of the 11th August 1812, and that on their part, the United States would fix the river Colorado as the limit between Louisiana and the Spanish possessions in the form that the said note expresses, and that they will abandon the claim arising from the damages occasioned by the French on the coasts and in the ports of Spain during the last war, as also, that for indemnification for damages occasioned by the suspension of the deposite at New Orleans.

On viewing these propositions, I cannot refrain from saying to your excellencies, that I do not see in them any convenient terms for entering into the exchange or contract proposed, for although his majesty has the power to bargain for the Floridas, as owner of them in the fullest extent, and has also the right, if he pleases, to ratify the convention of the 11th August, 1802, which is suspended for the reasons your excellencies know, there are wanting equal right and power in the United States to make the cession your excellencies mention, the United States having no right to demand of Spain compensation for damages occasioned by the French privateers, as I have demonstrated in my notes on that point, and to which I again refer. Spain, therefore, could not receive from the United States the renunciation of a right they have not, and which she does not recognize as belonging to them. The same may be said as to the claim for the suspension of the deposite at New Orleans; and as to the claim to fix the limits of Louisiana at the Rio Bravo, from which claim flows the assertion that the fixing it at the Colorado is to be considered as a cession, it is equally necessary for me to observe to your excellencies, that the Spanish government has made it appear, and is equally ready to show more and more, by the most irrefragable proofs, that the limit which separates Louisiana and the Spanish possessions, is a line which, beginning in the Gulf of Mexico, between the rivers Carecut or Carcasee, and the Marmenta or Marmentao, ascends towards the north, between the Adaes and Natchitoces, until it cuts the Red River, and as from this point they are doubtful and little known, the limits which ought to be marked on the northern side appear to be proper subjects for reference to the prudent investigation of commis-

sioners of limits to be named by both parties, who having the view of the territory and all the documents and dates which may be necessary before them, rectifying what ought to be rectified, and furnishing the lights necessary to both governments on limits which have never yet been fixed or determined with all the exactness necessary, may be thus able to establish the demarcation completely to the satisfaction of both governments.

In this view of the subject, it cannot be concealed from the penetration of your excellencies, that as a consequence of the propositions you have made by your note of the 12th, Spain would cede to the United States not only the territories which indisputably belong to her to the east of the Mississippi, that is, the two Floridas, but also others equally her own in the interior provinces of New Spain, without receiving any thing in return but the remuneration of a right which she does not acknowledge in the United States, which is to reclaim for the damages arising from the suspension of the deposite, and for those occasioned by the French privateers on the coast and in the ports of Spain during the last war, when on the contrary Spain thinks she has shown that she is in no manner liable for the same.

The justice of the American government will not permit it to insist on propositions so totally to the disadvantage of Spain; and however anxious his majesty may be to please the United States, he cannot on his part assent to them, nor can he do less than consider them as little conformable to the rights of his crown.

I renew to your excellencies the demonstrations of my distinguished esteem, and pray to God to guard your lives many years.

(Signed)

PEDRO CEVALLOS.

*Messrs. Pinckney and Monroe.*

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No. 28.

*Messrs. Pinckney and Monroe to Don Pedro Cevallos.*

*Aranjuez, May 18th, 1805.*

SIR,

We have received your excellency's letter of the 15th, by which we perceive with regret, that the propositions which we had the honor to make to his catholic majesty, on the part of our government, on the 12th instant, for the adjustment of the several points depending

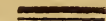
between the United States and Spain, have been absolutely rejected. By this answer, which we presume is given by the order of his majesty, we consider the negotiation concluded; we have therefore only to remark that we shall hasten to communicate the result to our government, who will not fail to bestow on it the attention, which is due to a concern of such high importance to the United States. The special mission to his catholic majesty being thus ended, it becomes the duty of Mr. Monroe to repair immediately to London, where he is the resident minister of the United States, for which purpose your excellency will be so obliging as to furnish him with the necessary passport. As preparatory to that step, we have to request your excellency will be so good as to obtain for him an early audience of their majesties, that he may be enabled to take his leave of them, and at the same time to renew the assurance of the high consideration entertained for them by our government.

We beg your excellency to accept, &c.

(Signed)

CHAS. PINCKNEY,  
JAS. MONROE.

*His excellency Don Pedro Cevallos.*



No. 29.

*Don Pedro Cevallos to Messrs. Pinckney and Monroe.*

*Aranjuez, May 20, 1805.*

GENTLEMEN,

Having given an account to their majesties of the contents of your esteemed letter of the 18th, in which you request the necessary passport for Mr Monroe to return, agreeably to his wish, to his residence at London, obtaining before his departure an audience of leave, their majesties have fixed to-morrow, being Wednesday, at half past eleven o'clock, for the audience which Mr. Monroe wishes, and without loss of time I shall have the honor to send the necessary passport for Mr. Monroe.

I have the honor to reiterate the demonstration of my distinguished consideration, &c.

(Signed)

PEDRO CEVALLOS.

*Messrs. Pinckney and Monroe.*



## No. 30.

*Don Pedro Cevallos to Messrs. Pinckney and Monroe.*

Don Pedro Cevallos, B. L. M. of Mr. Pinckney and of Mr. Monroe, and has the honor to enclose the necessary passport of Mr. Monroe.

Don Pedro Cevallos reiterates on this occasion the demonstrations of his distinguished consideration and esteem.

*Aranjuez, May 22d, 1805.*

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 No. 31.

*An address to the King of Spain, by Mr. Monroe.*

*Aranjuez, May 22, 1805.*

SIR,

On my arrival here I had the honor to assure your majesty of the high consideration of my government for your majesty's person and government. I then hoped to have had the honor to conclude the special mission with which I was charged, in conjunction with the minister plenipotentiary of the United States, near your majesty, to the advantage and satisfaction of both parties; but being disappointed in this respect, all our propositions having been rejected, and none others ever offered, on the part of your majesty's government, though often invited, it is my duty to return to my station at London. We have transmitted the result to our government for its decision. Under these circumstances, I have thought it my duty, to take my leave of your majesty in the usual form, and in so doing to assure your majesty, of the high consideration of my government, and of the satisfaction it would have derived, from an amicable arrangement on fair principles, of all the questions depending between the two nations, to accomplish which, it has made so many friendly advances and exertions.

*Messrs. Monroe and Livingston to Mr. Marbois.*

SIR,

The undersigned ministers plenipotentiary of the United States of America, deeming the interposition of the first consul and his friendly offices with Spain, important in the negotiations which the United States propose to set on foot with his catholic majesty, for so much of his territory as lay to the east of the ceded territory and border upon the United States; they have consented to the erasing the article they had proposed to this effect in the treaty, with some reluctance; but they trust that the first consul, influenced by his friendship for the United States, will have no difficulty in assuring them of his aid, whenever such negotiation shall be commenced. It would be highly satisfactory to the undersigned to be enabled to transmit the same to their government together with the treaty.

The undersigned, &c. &c.

Note.—The date omitted in the copy transmitted by Messrs. Livingston and Monroe, but presumed to be immediately after that of the signature of the treaty, 30th April, 1803.

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[Translation.]

*M. Marbois to Messrs. Livingston and Monroe.*

GENTLEMEN,

I have received the letter you did me the honor to write to me, to request that the first consul would employ his good offices, with his catholic majesty to promote the success of the negotiation which you propose to open at Madrid concerning the territory of the Spanish dominion, to the eastward of that which has been ceded to the United States by the French Government.

I have transmitted your letter to the minister of foreign relations, and I have not failed to inform him that the good offices which you solicit formed the substance of one of the articles of the project proposed by you, and which you had agreed to retrench with extreme reluctance. The minister's answer to me is, that the United States might promise themselves, from the friendship of the first consul, his concurrence and support in every thing that would tend to strengthen the bonds of good understanding between two nations in amity with the French republic.

14th Floreal, year 11.

[65]

# MESSAGE

FROM

**THE PRESIDENT OF THE UNITED STATES,**

TRANSMITTING,

IN PURSUANCE OF A RESOLUTION OF THE HOUSE OF REPRESENTATIVES,

SUCH FURTHER INFORMATION,

IN

**RELATION TO OUR AFFAIRS WITH SPAIN,**

AS, IN HIS OPINION,

IS NOT INCONSISTENT WITH THE PUBLIC INTEREST TO DIVULGE.

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DECEMBER 28, 1818.

Read, and referred to the committee on Foreign Relations.

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WASHINGTON:

PRINTED BY E. DE KRAFFT

1819.

THE HISTORY OF THE

Faint, illegible text covering the majority of the page, likely bleed-through from the reverse side. The text is arranged in several paragraphs and is mostly illegible due to fading and low contrast.

*To the House of Representatives of the United States:*

In compliance with a resolution of the 15th instant, I lay before the House of Representatives, a report from the Secretary of State, with the papers and documents accompanying it.

**JAMES MONROE.**

*December 28th, 1818.*



*Department of State, December 23d, 1818.*

The Secretary of State, to whom has been referred a resolution of the House of Representatives of the 15th instant, requesting the President to cause to be communicated to that House, such further correspondence and proceedings in relation to our affairs with Spain, as, in his opinion, it should not be inconsistent with the public interest to divulge, has the honor herewith to submit to the President, the copy of a letter of the 28th November, and an extract of one of the 2d of this month, from this Department to the minister plenipotentiary of the United States at Madrid, together with copies of the documents transmitted with them.

JOHN QUINCY ADAMS.





*List of documents accompanying the message of the President of the United States, complying with the resolution of the House of Representatives, of December 15, 1818.*

Letter of the Secretary of State, to G. W. Erving, Esq. Minister Plenipotentiary at Madrid, 28th November, and an extract from one of the 2d December, 1818, with the following enclosures:

*Nicholls, (col.) and his Negro Fort.*

1. Nicholls's proclamation, 29th August, 1814, and letter to Laffite, 31st August, 1814.
2. (a.) Nicholls to Hawkins, 28th April, 1815.  
(b.) Extract 9th article, treaty of Ghent, and acceptance of it by three Indians.
3. Nicholls to Hawkins, 12th May, 1815.
- 4 & 5. Hawkins to Nicholls, 24th and 28th May, 1815.
6. (a.) Gaines, (gen.) to A. J. Dallas, Secretary of War, 14th May, 1815.  
(b.) Jervais' (Samuel) deposition.
7. Gaines, (gen.) to A. J. Dallas, 22d May, 1815.
8. Memorandum of a gentleman of respectability at Bermuda, 21st May, 1815.
9. Address from the Indians to the king of England, purporting also to be a treaty, 10th March, 1815; published in the London newspapers of 15th August, 1818.
10. Mr. Monroe to Mr. Baker, 10th July, 1815, complaining of the conduct of Nicholls.
11. Mr. Monroe to Mr. Adams, 21st July, 1815.
12. (a.) Mr. Adams, to Mr. Monroe, Sec. of State, 19th Sep. 1815.  
(b.) do. to Earl Bathurst, 25th September, 1815.
13. (a.) do. to Mr. Monroe, Sec. of State, 8th Feb. 1816.  
(b.) do. to Lord Castlereagh, 21st March, 1816.
14. Jackson, (gen.) to governor of Pensacola, 23d April, 1816.
15. Zuniga, (gov.) to general Jackson, (answer,) 26th May, 1816.
16. Amelung, (capt.) report to general Jackson, New Orleans, 4th June, 1816.
17. Jackson, (gen.) to W. H. Crawford, Nashville, 15th June, 1816.
18. (a.) Gaines, (gen.) to W. H. Crawford, camp, near fort Jackson, 30th April, 1816, with  
(b.) Talk from the Little Prince, Tustannugge Hopoy.
19. Gaines, (gen.) to col. Clinch, Fort Montgomery, 23d May, 1816.
20. do. to com. Patterson, do. 22d May, 1816.
21. Patterson, (com.) to lieutenant commandant Cha. E. Crawley, 19th June, 1816.
22. Patterson, (com.) to sailing master Jairus Loomis, 19th June, 1816.

23. Loomis, (Jairus) to com. Patterson, 13th August, 1816.  
 24. Patterson, (com.) to B. W. Crowninshield, Secretary of the Navy, 15th Aug. 1816.  
 25. Kindelan, (gov.) to George Cockburn, 18th February, 1815.

*Mazot, (Don Jose,) Governor of Pensacola.*

26. Mazot to Jackson, 18th February, 1818.  
 27. Jackson, (gen.) to gov. Mazot, 16th March, 1818. } not found.  
 28. do. do. 25th March, 1818.  
 29. Mazot, (gov.) to general Jackson, 15th April, 1818.  
 30. Jackson, (gen.) to governor Mazot, 27th April, 1818.  
 31. Mazot, (gov.) to major W. Youngs, 27th and 30th April, 1818.  
 32. (a.) do. to general Jackson, 18th May, 1818.  
       (b.) Certificates from New Orleans and Pensacola.  
       (c.) Defence of F. C. Luengo, commandant at St. Marks.  
 33. Mazot, (gov.) to general Jackson, 23d May, 1818.  
 34. Jackson, (gen.) to gov. Mazot, 23d and 24th May, 1818.  
 35. Mazot, (gov.) to general Jackson, 24th May, 1818.  
 36. Jackson, (gen.) to gov. Mazot, 25th May, 1818.  
 37. (a.) Certificates and declarations of W. Russell and Jas. L. Bell  
       (b.) do. of Richard Brickham and John Bonner.  
       (c.) do. of Wm. Hambly, 2 June, 1818  
       (d.) do. of J. Barreilas, G. Skeate, C Le Jeune, and W. Cooper  
               19th September, 1818.  
       (e.) do. of Santiago Dauphin, and Joseph Bonefi.  
       (f.) do. of Pierre Senac.  
       (g.) do. of J. S. Caro.  
       (h.) do. of C. Baron.  
 38. Jackson, (gen.) to J. C. Calhoun, Sec. of War, 25th March, 1818  
 39. do. do. do. 2d June, 1818.

*Luengo (F. C.) commandant at St. Marks.*

40. Jackson (gen.) to Secretary of War, 8th April, 1818.  
 41. do to F. C. Luengo, 6th April, 1818.  
 42. Luengo to Jackson, 7th April, 1818.  
 43. (a.) Jackson to Luengo, 7th April, 1818.  
       (b.) do. do. do. (noon.)  
 44. Luengo to Jackson, (protest) 7th April, 1818.  
 45. Certificate of Wm. Hambly, 24th July, 1818.  
 46. (a.) W. Hambly and E. Doyle, to A. Jackson, 2d May, 1818  
       (b.) Gadsden, (James) to do. 3d May, 1818  
       (c.) Twiggs, (major) do. do.  
       (d.) Brooks, (Jac. R.) and Peter Cone do. do.

- (e.) Fraser, (A. F.) and D. F. Sullivan to A. Jackson, 2 May, 1818.
47. (a.) Arbuthnott to Nicholls, 26th Aug. 1817 }  
 (b.) Hambly to Arbuthnott, 10th May, [23d } Courier news-  
 March,] 1817. } paper, (Lon-  
 don,) of 24th  
 (c.) Indian power to Arbuthnott, 17 June, 1817 } Aug. 1818.
48. Luengo to Arbuthnott, 25th December, 1817.

*Arbuthnott—Armbrister.*

49. Proceedings of the court martial upon their trials.
50. Extracts from message, 25th March, 1818, p. 7, 8, 11, 12, 14, 22.
51. (a.) Gaines, (gen.) to Secretary of War, 2d December, 1817, with a talk to Indians.  
 (b.) Gaines, (gen.) to major Muhlenburg, Nov. 1817.  
 (c.) Scott, (lieutenant) to general Gaines, 28th Nov. 1817.  
 (d.) Gaines, (gen.) to captain Clinch, 30th Nov. 1817.
52. Jackson to the Secretary of War, 20th April, 1818.
53. do. do. 26th April, 1818.
54. do. do. 5th May, 1818.
55. do. do. 2d June, 1818.
56. Extract from message, 15th December, 1817, p. 42, (T. Wayne to B. Homans.)
57. (a.) Extract from message, 26th March, 1818, p. 10; letter to the Secretary of State, 24th December, 1817, (ext.)  
 (b.) Extract from message, 26th March, 1818, p. 12; paper in M'Gregor's hand writing, being instructions for sailing into Tampa Bay.  
 (c.) Extract from message, 26th March, 1818, p. 7; letter to a gentleman in the District of Columbia, 30th July, 1817.  
 (d.) Extract from message, 26th March, 1818, p. 9; M'Gregor to a gentleman in Baltimore, Nassau, 27th December, 1817.  
 (e.) Extract from message, 26th March, 1818, p. 10; extract from intended proclamation to inhabitants of the Floridas, in M'Gregor's hand writing.
58. Extracts from the testimony of L. Phenix, J. S. Arbuthnott, and P. B. Cook, on the trial of Armbrister.
59. Armbrister's memorial to the Duke of York.
60. do. commission from admiral Cochrane as auxiliary second lieutenant of the corps of colonial marines, sent "to the creek nations, for the purpose of training to arms such Indians, and others, as may be friendly to, and willing to fight under the standard of his (Britannic) majesty." 25th July, 1814.
61. Cook, (P. B.) to Eliz. A. Carney, Suwahne, 19th January, 1818.
62. Duplicate draft of A. Arbuthnott to W. Hambly, 3d May, 1817.
63. Indian talk to Tustonaky Thlacco.
64. Duplicate draft of letter, A. Arbuthnott to C. Bagot, [Aug. 1817]

65. Arbuthnott to an officer of rank in England, January, 1818.  
(Times newspaper, (London,) Aug. 7th, 1818.
66. Boleck to governor Coppinger, 18th November, 1816.
67. Governor Coppinger to Boleck, 20th December, 1816.
68. Arbuthnott's journal, (one sheet.) Taken among his papers.
69. do. to commanding officer Fort Gaines, 3d March, 1817.
70. Culloh, (A.) to Arbuthnott, May, 1817.
71. Paper without date or signature: supposed to be the answer to the paper marked No. 4, in the proceedings of the court martial, on the trial of Arbuthnott.
72. Arbuthnott to general Mitchell, January, 1818, (No. 6, in court martial proceedings.)

*The Secretary of State to George W. Erving, Esq.*

No. 7.

*Department of State,*

*Washington, 28th November, 1818.*

*George W. Erving, Minister Plenipotentiary to Spain, Madrid,*

SIR,

Your despatches, to No. 92, inclusive, with their enclosures, have been received at this department. Among these enclosures are the several notes addressed to you, by Mr. Pizarro, in relation to the transactions during the campaign of general Jackson, against the Seminole Indians, and the banditti of negroes combined with them, and particularly to his proceedings in Florida, without the boundaries of the United States.

In the fourth and last of those notes of Mr. Pizarro, he has given formal notice, that the king, his master, has issued orders for the suspension of the negotiation between the United States and Spain, until satisfaction shall have been made by the American government to him, for these proceedings of general Jackson, which he considers as acts of unequivocal hostility against him, and as outrages upon his honor and dignity, the only acceptable atonement for which is stated to consist in a disavowal of the acts of the American general, thus complained of; the infliction upon him, of a suitable punishment, for his supposed misconduct, and the restitution of the posts and territories taken by him from the Spanish authorities, with indemnity for all the property taken, and all damages and injuries, public or private, sustained in consequence of it.

Within a very few days after this notification, Mr. Pizarro must have received, with copies of the correspondence between Mr. Onis and this department, the determination which had been taken by the President to restore the places of Pensacola with the fort of Barrancas, to any person properly authorized on the part of Spain to receive them, and the fort of St. Marks, to any Spanish force adequate to its protection against the Indians, by whom its forcible occupation had

been threatened, for purposes of hostility against the United States. The officer commanding at the post, has been directed to consider 250 men as such adequate force, and in case of their appearance with proper authority, to deliver it up to their commander accordingly.

From the last mentioned correspondence, the Spanish government must likewise have been satisfied that the occupation of these places in Spanish Florida, by the commander of the American forces, was not by virtue of any orders received by him from this government, to that effect, nor with any view of wresting the province from the possession of Spain, nor in any spirit of hostility to the Spanish government; that it arose from incidents, which occurred in the prosecution of the war against the Indians, from the imminent danger in which the fort of St. Marks was of being seized by the Indians themselves, and from the manifestations of hostility to the United States, by the commandant of St. Marks, and the governor of Pensacola, the proofs of which were made known to general Jackson, and impelled him, from the necessities of self-defence, to the steps of which the Spanish government complains.

It might be sufficient to leave the vindication of these measures, upon those grounds, and to furnish, in the enclosed copies of general Jackson's letters, and the vouchers by which they are supported, the evidence of that hostile spirit on the part of the Spanish commanders, but for the terms in which Mr. Pizarro speaks of the execution of two British subjects, taken, one at the fort of St. Marks, and the other at Suwany, and the intimation that these transactions may lead to a change in the relations between the two nations, which is doubtless intended to be understood as a menace of war.

It may be therefore proper to remind the government of his catholic majesty, of the incidents in which this Seminole war originated, as well as of the circumstances connected with it in the relations between Spain and her ally, whom she supposes to have been injured by the proceedings of general Jackson; and to give to the Spanish cabinet some precise information of the nature of the business, peculiarly interesting to Spain, in which these subjects of her allies, in whose favor she takes this interest, were engaged, when their projects of every kind were terminated in consequence of their falling into the hands of general Jackson.

In the month of August, 1814, while a war existed between the United States and Great Britain, to which Spain had formally declared herself neutral, a British force, not in the fresh pursuit of a defeated and flying enemy, not overstepping an imaginary, and equivocal boundary between their own territories, and those belonging in some sort, as much to their enemy as to Spain; but approaching by sea, and by a broad and open *invasion* of the Spanish province, at a thousand miles, or an ocean's distance from *any* British territory, landed in Florida, took possession of Pensacola, and the fort of Bar-

rancas, and invited by public proclamations, [doc. 1.] all the runaway negroes, all the savage Indians, all the pirates, and all the traitors to their country, whom they knew, or imagined to exist within reach of their summons, to join their standard, and wage an exterminating war against the portion of the United States, immediately bordering upon this neutral, and thus violated territory of Spain. The land commander of this British force, was a certain colonel Nicholls, who, driven from Pensacola, by the approach of general Jackson, actually left, to be blown up, the Spanish fort of Barrancas, when he found it could not afford him protection; and evacuating that part of the province, landed at another, established himself on the Apalachicola river, and there erected a fort, from which to sally forth with his motley tribe of black, white, and red combatants, against the defenceless borders of the United States, in that vicinity. A part of this force consisted of a corps of colonial marines, levied in the British colonies, in which George Woodbine was a captain, and Robert Christie Armbrister was a lieutenant. [2 b. 59. 60.]

As between the United States and Great Britain, we should be willing to bury this transaction in the same grave of oblivion, with other transactions of that war, had the hostilities of colonel Nicholls, terminated with the war. But he did not consider the peace which ensued between the United States and Great Britain, as having put an end, either to his military occupations, or to his negotiations with the Indians, against the United States. Several months after the ratification of the treaty of Ghent, he retained his post, and his party-coloured forces, in military array. By the ninth article of that treaty, [2 b.] the United States had stipulated to put an end, immediately after its ratification, to hostilities with all the tribes or nations of Indians, with whom they might be at war, at the time of the ratification, and to restore to them all the possessions which they had enjoyed in the year 1814. This article had no application to the Creek nation, with whom the United States had already made peace, by a treaty concluded on the ninth day of August, 1814, more than four months before the treaty of Ghent was signed. Yet colonel Nicholls not only affected to consider it as applying to the Seminoles of Florida, and the outlawed Red Sticks, whom he had induced to join him there, but actually persuaded them that *they* were entitled, by virtue of the treaty of Ghent, to all the lands which had belonged to the Creek nation, within the United States, in the year 1811, and that the government of Great Britain would support them in that pretension. He asserted [2 a c.] also this doctrine in a correspondence with colonel Hawkins, then the agent of the United States, with the Creeks. and gave him notice in their name, with a mockery of solemnity, [9.] that they had concluded a treaty of alliance, offensive, and defensive, and a treaty of navigation and commerce with Great Britain, of which more was to be heard after it should be ratified in England. Colonel Nicholls then evacuated his fort, which in some

of the enclosed papers, is called the fort at Prospect Bluff, but which he had denominated, the *British* post on the Apalachicola; took with him the white portion of his force, and embarked for England with several of the wretched savages, whom he was thus deluding to their fate, among whom was the prophet Francis or Hillis Hadjo, and left the fort, amply supplied with military stores and ammunitions, to the negro department of his allies. It afterwards was known by the name of the Negro Fort.

Colonel Hawkins immediately communicated to this government the correspondence between him and Nicholls, here referred to, (copies of which marked No. 1, to 5, are herewith enclosed,) upon which, Mr. Monroe, then Secretary of State, addressed a letter [10.] to Mr. Baker, the British Charge d'Affaires at Washington, complaining of Nicholls's conduct, and shewing that his pretence, that the ninth article of the treaty of Ghent, could have any application to his Indians, was utterly destitute of foundation. Copies of the same correspondence were transmitted to the minister of the United States, then in England, with instructions [11.] to remonstrate with the British government against these proceedings of Nicholls, and to show how incompatible they were with the peace which had been concluded between the two nations. These remonstrances were accordingly made, first in personal interview with earl Bathurst and lord Castlereagh, and afterwards in written notes addressed successively to them, (copies of which, [12. a. b. 13. a. b.] together with extracts from the despatches of the American ministers to the Secretary of State, reporting what passed at those interviews, are enclosed.) Lord Bathurst, in the most unequivocal manner, confirmed the facts, and disavowed the misconduct of Nicholls; declared his disapprobation of the pretended treaty of alliance, offensive and defensive, which he had made, assured the American minister that the British government had refused to ratify that treaty, and would send back the Indians, whom Nicholls had brought with him, with advice to make their peace on such terms as they could obtain. Lord Castlereagh confirmed the assurance that the treaty would not be ratified; and if at the same time that these assurances were given, certain distinctions of public notoriety were shown to the prophet Hillis Hadjo, and he was actually honored with a commission as a British officer, it is to be presumed that these favors were granted him as rewards of past services, and not as encouragement to expect any support from Great Britain, in a continuance of savage hostilities, against the United States; all intention of giving any such support having been repeatedly and earnestly disavowed.

The negro fort, however, abandoned by colonel Nicholls, remained on the Spanish territory, occupied by the banditti to whom he had left it, and held by them as a post from whence to commit depredations, outrages, and murders, and as a receptacle for fugitive slaves and malefactors, [14.] to the great annoyance both of the United States and of Spanish Florida. In April,



1816, general Jackson wrote a letter to the governor of Pensacola, calling upon him to put down this common nuisance to the peaceable inhabitants of both countries. That letter, together with the answer of the governor of Pensacola, [15.] has already been communicated to the Spanish minister here, and by him doubtless to his government. Copies of them are nevertheless now again enclosed; particularly as the letter from the governor, explicitly admits that this fort, constructed by Nicholls in violation both of the territory and neutrality of Spain, was still no less obnoxious to his government than to the United States; but that he had neither sufficient force, nor authority without orders from the governor general of the Havanna to destroy it. It was afterwards [23.] on the 27th of July, 1816, destroyed by a cannon shot from a gun vessel of the United States, which in its passage up the river, was fired upon from it. It was blown up with an English flag still flying as its standard; and immediately after the barbarous murder of a boat's crew, belonging to the navy of the United States, by the banditti left in it by Nicholls.

In the year 1817, Alexander Arbuthnott, of the Island of New Providence, a British subject, first appeared as an English trader in Spanish Florida, and as the successor of colonel Nicholls in the employment of instigating the Seminole and outlawed Red Stick Indians to hostilities against the United States, by reviving the pretence that they were entitled to all the lands which had been ceded by the Creek nation to the United States, in August 1814. As a mere Indian trader, the intrusion of this man into a Spanish province, was contrary to the policy observed by all the European powers in this hemisphere, and by none more rigorously than by Spain, of excluding all foreigners from intercourse with the Indians within their territories. It must be known to the Spanish government whether Arbuthnott had a Spanish licence for trading with the Indians in Spanish Florida, or not; but they also know that Spain was bound by treaty to restrain by force all hostilities on the part of those Indians, against the citizens of the United States; and it is for them to explain, how consistently with those engagements, Spain could, contrary to all the maxims of her ordinary policy, grant such a license to a foreign incendiary, whose principal if not his only object appears to have been, to stimulate those hostilities which Spain had expressly stipulated by force to restrain. In his infernal instigations he was but too successful. [49.] No sooner did he make his appearance among the Indians, accompanied by the prophet Hillis Hadjo, returned from his expedition to England, (50,) than the peaceful inhabitants on the borders of the United States were visited with all the horrors of savage war; the robbery of their property, and the barbarous and indiscriminate murder of woman, infancy and age.

After the repeated expostulations, warnings, and offers of peace, through the summer and autumn of 1817, on the part of the United States, had been answered only by renewed outrages, and after a detachment of 40 men, under lieutenant Scott, [51 a] accompanied by

seven women, had been waylaid and murdered by the Indians, [61] orders were given to general Jackson, and an adequate force was placed at his disposal to terminate the war. It was ascertained, that the Spanish force in Florida was inadequate for the protection even of the Spanish territory itself, against this mingled horde of lawless Indians and negroes; and although their devastations were committed within the limits of the United States, they immediately sought refuge within the Florida line, and there only were to be overtaken. The necessity of crossing the line was indispensable; for it was from beyond the line that the Indians made their murderous incursions within that of the United State. It was there that they had their abode; and the territory belonged in fact to them, although within the borders of the Spanish jurisdiction. There it was that the American commander met the principal resistance from them; there it was that were found [38] the still bleeding scalps of our citizens, freshly butchered by them; there it was that he released the only *woman* who had been suffered to survive the massacre of the party under lieutenant Scott. But it was not anticipated by this government, that the commanding officers of Spain in Florida, whose especial duty it was, in conformity to the solemn engagements contracted by their nation, to restrain by force those Indians from hostilities against the United States, would be found encouraging, aiding, and abetting them, and furnishing them supplies for carrying on such hostilities. The officer in command immediately before general Jackson, was therefore specially instructed to respect as far as possible the Spanish authority, wherever it was maintained; and copies of those orders were also furnished to general Jackson, upon his taking the command.

In the course of his pursuit, as he approached St. Marks, he was informed direct from the governor of Pensacola, that a party of the hostile Indians had threatened to seize that fort, and that he apprehended the Spanish garrison there was not in strength sufficient to defend it against them. This information was confirmed from other sources; and, by the evidence produced upon the trial of Armbrister, is proved to have been exactly true. By all the laws of neutrality, and of war, as well as of prudence and of humanity, he was warranted in anticipating his enemy by the amicable, and, that being refused, by the forcible occupation of the fort. There will need no citations from printed treatises on international law, to prove the correctness of this principle. It is engraved in adamant on the common sense of mankind. No writer upon the laws of nations, ever pretended to contradict it. None, of any reputation or authority, ever omitted to assert it.

At fort St. Marks, Alexander Arbuthnott, the British Indian trader from beyond the seas, the fire-brand, by whose touch this negro-Indian war against our borders had been rekindled, was found [34] an inmate of the commandant's family. And it was also found, that, by the commandant himself, councils of war had been permitted

to be held within it by the savage chiefs and warriors; that the Spanish storehouses had been appropriated to their use; that it was an open market for cattle, known to have been robbed by them from citizens of the United States, and which had been contracted for and purchased by the officers of the garrison; that information had been afforded from this fort by Arbuthnott to the enemy, of the strength and movements of the American army; that the date of departure of express had been noted by the Spanish commissary, and ammunition, munitions of war and all necessary supplies, furnished to the Indians.

The conduct of the governor of Pensacola was not less marked by a disposition of enmity to the United States, and by an utter disregard to the obligations of the treaty, by which he was bound to restrain by force the Indians from hostilities against them. When called upon to vindicate the territorial rights and authority of Spain, by the destruction of the negro fort, his predecessor had declared it to be not less annoying and pernicious to the Spanish subjects in Florida, than to the United States, but had pleaded his inability to subdue it. He himself had expressed his apprehensions, that fort St. Marks would be forcibly taken by the savages from its Spanish garrison; yet, at the same time, he had refused the passage up the Escambia river, unless upon the payment of excessive duties, to provisions, destined as supplies for the American army, which, by the detention of them, was subjected to the most distressing privations. He had permitted free ingress and egress at Pensacola to the avowed savage enemies of the United States. Supplies of ammunition, munitions of war and provisions had been received by them from thence. They had been received and sheltered there, from the pursuit of the American forces, and suffered again to sally thence, to enter upon the American territory and commit new murders. Finally, on the approach of general Jackson to Pensacola, the governor sent him a letter, [33] denouncing his entry upon the territory of Florida, as a violent outrage upon the rights of Spain, commanding him to depart and withdraw from the same, and threatening in case of his non-compliance to employ force to expel him.

It became therefore, in the opinion of general Jackson, [54] indispensably necessary to take from the governor of Pensacola the means of carrying his threat into execution. Before the forces under his command, the savage enemies of his country had disappeared. But he knew that the moment those forces should be disbanded, if sheltered by Spanish fortresses, if furnished with ammunitions and supplies by Spanish officers, and if aided and supported by the instigation of Spanish encouragement, as he had every reason to expect they would be, they would re-appear, and, fired, in addition to their ordinary ferociousness, with revenge for the chastisement they had so recently received, would again rush with the war-hatchet and the scalping-knife, into the borders of the United States, and mark every footstep with the blood of their defenceless citizens. So far as all the native resources of the savage extended, the war was at an end,

and general Jackson was about to restore to their families and their homes, the brave volunteers who had followed his standard, and who had constituted the principal part of his force. This could be done with safety, leaving the regular portion of his troops to garrison his line of forts, and two small detachments of volunteer cavalry to scour the country round Pensacola, and sweep off the lurking remnant of savages, who had been scattered and dispersed before him. This was sufficient to keep in check the remnant of the banditti, against whom he had marched, so long as they should be destitute of other aid and support. It was in his judgment not sufficient, if they should be suffered to rally their numbers under the protection of Spanish forts, and to derive new strength from the impotence or the ill will against the United States of the Spanish authorities.

He took possession therefore of Pensacola, and of the fort of Barrancas, as he had done of St. Marks, not in a spirit of hostility to Spain, but as a necessary measure of self-defence; giving notice that they should be restored whenever Spain should place commanders and a force there, able and willing to fulfil the engagements of Spain towards the United States, of restraining by force the Florida Indians from hostilities against their citizens. The President of the United States, to give a signal manifestation of his confidence in the disposition of the king of Spain, to perform with good faith this indispensable engagement, and to demonstrate to the world, that neither the desire of conquest, nor hostility to Spain, had any influence in the councils of the United States, has directed the unconditional restoration to any Spanish officer, duly authorized to receive them, of Pensacola, and the Barrancas, and that of St. Marks to any Spanish force adequate for its defence, against the attack of the savages. But the President will neither inflict punishment, nor pass a censure, upon general Jackson, for that conduct, the motives for which were founded in the purest patriotism; of the necessity for which he had the most immediate and effectual means of forming a judgment; and the vindication of which is written in every page of the law of nations, as well as in the first law of nature, self-defence. He thinks it, on the contrary, due to the justice, which the United States have a right to claim from Spain, and you are accordingly instructed to demand of the Spanish government, that inquiry shall be instituted into the conduct of Don Jose Mazot, governor of Pensacola, and of Don Francisco C. Luengo, commandant of St. Marks, and a suitable punishment inflicted upon them, for having, in defiance and violation of the engagements of Spain with the United States, aided and assisted these hordes of savages, in those very hostilities against the United States, which it was their official duty to restrain. This inquiry is due to the character of those officers themselves, and to the honor of the Spanish government. The obligation of Spain, to restrain *by force*, the Indians of Florida, from hostilities against the United States and their citizens, is explicit, is positive, is unqualified. The fact, that for a series of years, they have received shelter, assistance, supplies,

and protection, in the practice of such hostilities, from the Spanish commanders in Florida, is clear and unequivocal. If, as the commanders, both at Pensacola and St. Marks, have alleged, [32, 42] this has been the result of their weakness, rather than of their will, if they have assisted the Indians against the United States, to avert their hostilities from the province which they had not sufficient force to defend against them. it may serve in some measure to exculpate, individually, those officers; but it must carry demonstration irresistible to the Spanish government, that the right of the United States can as little compound with impotence as with perfidy, and that Spain must immediately make her election, either to place a force in Florida, adequate at once to the protection of her territory, and to the fulfilment of her engagements, or cede to the United States a province, of which she retains nothing but the nominal possession, but which is in fact a derelict, open to the occupancy of every enemy, civilized or savage, of the United States, and serving no other earthly purpose, than as a post of annoyance to them.

That the purposes, as well of the negro-Indian banditti, with whom we have been contending, as of the British invaders of Florida, who first assembled and employed them, and of the British intruding and pretended traders, since the peace, who have instigated, and betrayed them to destruction, have been not less hostile to Spain than to the United States, the proofs, contained in the documents herewith enclosed, are conclusive. Mr. Pizarro's note of 29th August, speaks of his catholic majesty's profound indignation at the "sanguinary executions on the Spanish soil of the subjects of powers in amity with the king;" meaning Arbuthnott and Armbrister. Let Mr. Pizarro's successor take the trouble of reading the enclosed documents, [49, 58.] and he will discover who Arbuthnott and Armbrister were, and what were their purposes; that Arbuthnott was only the successor of Nicholls, and Armbrister the agent of Woodbine and the subaltern of M'Gregor. Mr. Pizarro qualifies general Jackson's necessary pursuit of a defeated savage enemy beyond the Spanish Florida line, as a *shameful invasion of his majesty's territory*. Yet that territory was the territory also of the savage enemy, and Spain was bound to restrain them by force from hostilities against the United States: and it was the failure of Spain to fulfil this engagement, which had made it necessary for general Jackson to pursue the savage across the line. What then was the character of Nicholls's invasion of his majesty's territory, and where was his majesty's profound indignation at that? Mr. Pizarro says, his majesty's forts and places have been violently seized on by general Jackson. Had they not been seized on, nay had not the principal of his forts been blown up, by Nicholls, and a British fort on the same Spanish territory been erected during the war, and left standing as a negro fort, in defiance of Spanish authority, after the peace? Where was his majesty's profound indignation at that? Has his majesty suspended formally all negotiation with the sovereign of colonel Nicholls, for this shameful

invasion of his territory, without color of provocation, without pretence of necessity, without shadow or even avowal of a pretext? Has his majesty given solemn warning to the British government, that these were incidents "of transcendent moment, capable of producing an essential and thorough change in the political relations of the two countries." Nicholls and Woodbine, in their invitations and promises to the slaves to run away from their masters and join them, did not confine themselves to the slaves of the United States. They received with as hearty a welcome, and employed with equal readiness, the fugitives from their masters in Florida, as those from Georgia. Against this special injury the governor of Pensacola did earnestly remonstrate with the British admiral Cockburn. [See the document marked 25.] But against the *shameful invasion* of the territory; against the violent seizure of the forts and places; against the blowing up of the Barrancas, and the erection and maintenance, under British banners of the negro fort on Spanish soil; against the negotiation, by a British officer, in the midst of peace, of pretended treaties, offensive and defensive, and of navigation and commerce, upon Spanish territory, between Great Britain and Spanish Indians, whom Spain was bound to control and restrain; if a whisper of expostulation was ever wafted from Madrid to London, it was not loud enough to be heard across the Atlantic, nor energetic enough to transpire beyond the walls of the palaces from which it issued and to which it was borne.

The connexion between Arbuthnott and Nicholls, and between Armbrister, Woodbine and M'Gregor, is established beyond all question, by the evidence produced at the trials before the court martial. I have already remarked to you on the very extraordinary circumstance, that a British trader, from beyond the sea, should be permitted by the Spanish authorities to trade with the Indians of Florida. From his letter to Hambly, dated 3d May, 1817, [see the document marked G in the proceedings of the court-martial,] it appears that his trading was but a pretence; and that his principal purpose was to act as the agent of the Indians of Florida, and outlaws from the Creeks, to obtain the aid of the British government in their hostilities against the United States. He expressly tells Hambly there, that the chief of those outlaws was the principal cause of his (Arbuthnott's) being in the country; and that he had come with an answer from earl Bathurst, delivered to him by governor Cameron of New Providence, to certain Indian talks, in which this aid of the British government had been solicited.

Hambly himself had been left by Nicholls as the agent between the Indians and the British government; but having found that Nicholls had failed in his attempt to prevail upon the British government to pursue this clandestine war, in the midst of peace, and that they were not prepared to support his pretence, that half a dozen outlawed fugitives from the Creeks were the Creek nation; when Arbuthnott, the incendiary, came, and was instigating them by promises of support from Great Britain, to commence their murderous incursions

into the United States, Hambly, at the request of the chiefs of the Creeks themselves, wrote to him, [47, 6.] warning him to withdraw from among that band of outlaws, and giving him a solemn foreboding of the doom that awaited him from the hand of justice, if he persevered in the course that he pursued. Arbuthnott nevertheless persisted; and while he was deluding the wretched Indians with the promise of support from England, he was writing letters for them [49, B. C. D. E. F.] to the British minister in the United States, to governor Cameron of New Providence, to colonel Nicholls, to be laid before the British government, and even to the Spanish governor of St. Augustine, and the governor general of the Havana, [H. n. 2.] soliciting, in all quarters, aid and support, arms and ammunition, for the Indians against the United States, bewailing the destruction of the negro fort, and charging the British government with having drawn the Indians into war with the United States, and deserting them after the peace.

You will remark, among the papers produced on his trial, a power of attorney, [49 n. 1.] dated 17th June, 1817, given him by twelve Indians, partly of Florida, and partly of the fugitive outlaws from the United States. He states that this power, and his instructions, were to memorialize the British government and the governor general of the Havana. These papers are not only substantially proved, as of his hand writing, on the trial, but in the daily newspapers of London, of the 24th and 25th of August last, his letter to Nicholls [compare 47 a. and 49 F.] is published, (somewhat curiously garbled) with a copy [47 b.] of Hambly's abovementioned letter to him, and a reference to this Indian power of attorney to him, [compare 47 c. and 49 n. 1] *approved by the commandant of St. Marks, F. C. Luengo.* Another of the papers, is a letter written in the name of the same chiefs, by Arbuthnott, to the governor general of the Havana, [49 H.] asking of him permission for Arbuthnott to establish a warehouse on the Apalachicola; bitterly and falsely complaining, that the Americans had made settlements on their lands within the Spanish lines; and calling upon the governor general to give orders to displace them, and send them back to their own country. In this letter, they assign as a reason for asking the license for Arbuthnott, their want of a person to put in writing for them their talks of grievances against the Americans: and they add, "The commander of the fort of St. Marks has heard all of our talks and complaints. He approves of what we have done, and what we are doing; and it is by his recommendation we have thus presumed to address your excellency." You will find these papers in the printed newspapers enclosed, and in the proceedings of the court martial, and will point them out to the Spanish government, not only as decisive proofs of the unexampled compliances of the Spanish officers in Florida, to foreign, intrusive agents and instigators of Indian hostilities against the United States, but as placing beyond a doubt that participation of this hostile spirit in the commandant of St. Marks, which general Jackson so justly complains of, and of which we have so well founded a right to demand the punish-

ment. Here is the commandant of a Spanish fort, bound by the sacred engagement of a treaty, to restrain by force the Indians within his command from committing hostilities against the United States, conspiring with those same Indians, and deliberately giving his written approbation to their appointment of a foreigner, a British subject, as their agent to solicit assistance and supplies from the governor general of the Havana, and from the British government, for carrying on those same hostilities.

Let us come to the case of Armbrister. He was taken in arms; leading and commanding the Indians in the war against the American troops; and to that charge, upon his trial, pleaded guilty. But the primary object of his coming there, was still more hostile to Spain than to the United States. You find [58] that he told three of the witnesses who testified at his trial, that he had come to this country upon *Mr. Woodbine's business at Tampa Bay*, to see the negroes righted; and one of them, that *he had a commission in the patriot army under M'Gregor*, and that he had expected a captaincy. And what was the intended business of M'Gregor and Woodbine at Tampa Bay? It was the conquest of Florida from Spain, by the use of those very Indians and negroes whom the commandant of St. Marks was so ready to aid and support in war against the United States. The chain of proof that establishes this fact, is contained in the documents communicated by the President to Congress, at their last session, relating to the occupation of Amelia Island by M'Gregor. From these documents you will find [56. 57, a.] that, while M'Gregor was there, Woodbine went from New Providence, in a schooner of his own, to join him; that he arrived at Amelia Island just as M'Gregor, abandoning the companions of his achievement there, was leaving it; that M'Gregor, quitting the vessel in which he had embarked at Amelia, went on board that of Woodbine, and returned with him to New Providence; that Woodbine had persuaded him they could yet accomplish the conquest of Florida, with soldiers to be recruited at Nassau, from the corps of colonial marines, which had served under Nicholls during the late war with the United States, which corps had been lately disbanded, and with negroes to be found at Tampa Bay, and 1500 Indians, already then engaged to Woodbine, who pretended that they had made a grant of all their lands there to him. Among the papers, the originals of which are in our possession, are, in M'Gregor's own hand-writing, instructions [57 b.] for sailing into Tampa Bay, with the assertion, that he calculated to be there by the last of April, or first of May, of the present year; a letter [c] dated 27th December last, to one of his acquaintance in this country, disclosing the same intention; and the extract of a proclamation, [d] which was to have been issued at Tampa Bay, to the inhabitants of Florida, by the person charged with making the settlement there, before his arrival, announcing his approach for the purpose of liberating them from the despotism of Spain, and of enabling them to form a government for themselves. He had persuaded those who would listen to him here,



that his ultimate object was to sell the Floridas to the United States. There is some reason to suppose, that he had made indirect overtures of a similar nature to the British government. This was Armbrister's business in Florida. He arrived there in March, the precursor of M'Gregor and Woodbine; and immediately upon his arrival, he is found [49] seizing upon Arbuthnott's goods, and distributing them among the negroes and Indians; seizing upon his vessel, and compelling its master to pilot him, with a body of armed negroes, towards the fort of St. Marks, with the declared purpose of taking it by surprise in the night; writing letters to governor Cameron of New Providence, urgently calling for supplies of munitions of war and of cannon for the war against the Americans, and letters to colonel Nicholls, renewing the same demands of supplies, informing him that he is with 300 negroes, "a few of our Bluff people," who had *stuck to the cause*, and were relying upon the faith of Nicholls's promises. "Our Bluff people" were the people of the negro fort, collected by Nichols and Woodbine's proclamations during the American and English war; and "*the cause*," to which they stuck, was the savage, servile, exterminating war against the United States.

Among the agents and actors of such virtuous enterprizes as are here unveiled, it was hardly to be expected, that there would be found remarkable evidences of their respect, confidence and good faith towards one another. Accordingly, besides the violent seizure and distribution by Armbrister of Arbuthnott's property, his letters to Cameron, and to Nicholls, are filled with the distrust and suspicions of the Indians, that they were deceived and betrayed by Arbuthnott; while in Arbuthnott's letters to the same Nicholls, [49 B.] he accuses Woodbine of having taken charge of poor Francis the prophet, or Hillis Hadjo, upon his return from England to New Providence, and, under pretence of taking care of him and his affairs, of having defrauded him of a large portion of the presents which had been delivered out from the king's stores to him for Francis's use. This is one of the passages of Arbuthnott's letter [47 a] to Nicholls, *omitted* in the publication of it last August, in the London newspapers.

Is this narrative of dark and complicated depravity; this creeping and insidious war, both against Spain and the United States; this mockery of patriotism; these political philters to fugitive slaves, and Indian outlaws; these perfidies and treacheries of villains, incapable of keeping their faith, even to each other; all in the name of South American liberty, of the rights of runaway negroes, and the wrongs of savage murderers; all combined, and projected to plunder Spain of her province, and to spread massacre and devastation along the borders of the United States; is all this sufficient to cool the sympathies of his catholic majesty's government, excited by the execution of these two "subjects of a power in amity with the king?" The Spanish government is not at this day to be informed, that, cruel as war in its mildest forms must be, it is, and necessarily must be doubly cruel when waged with savages; that savages make no prison-

ers, but to torture them; that they give no quarters; that they put to death, without discrimination of age or sex. That these ordinary characteristics of Indian warfare, have been applicable in their most heart-sickening horrors to that war, left us by Nicholls, as his legacy, re-instigated by Woodbine, Arbuthnott, and Armbrister, and stimulated by the approbation, encouragement, and aid of the Spanish commandant at St. Marks, is proof required? Intreat the Spanish minister of State for a moment to overcome the feelings, which details like these must excite; and to reflect, if possible, with composure upon the facts stated in the following extracts, from the documents enclosed.

Letter from sailing-master Jairus Loomis to commodore Daniel T. Patterson, 13th August, 1816, reporting the destruction of the negro fort. [23.]

“ On examining the prisoners, they stated that Edward Daniels, O. S. who was made prisoner in the boat, on the 17th July, *was tarred and burnt alive.*”

Letter from Archibald Clarke to gen. Gaines, 26th Feb. 1817. (Message P. U. S. to Congress, 25th March, 1818, p. 9.)

“ On the 24th inst. the house of Mr. Garret, residing in the upper part of this county, near the boundary of Wayne county, (Georgia,) was attacked, during his absence, near the middle of the day, by this party (of Indians,) consisting of about fifteen, who shot Mrs. Garret, in two places, and then despatched her by stabbing and scalping. Her two children, one about three years, the other two months, were also murdered, and the eldest scalped: the house was then plundered of every article of value, and set on fire.

Letter from Peter B. Cook, (Arbuthnott's clerk,) to Eliz. A. Carney, at Nassau, dated Suwahnee, 19th January, 1818, giving an account of their operations with the Indians against the Americans; and their massacre of lieut. Scott and his party. [61.]

“ There was a boat that was taken by the Indians, that had in, thirty men, seven women, four small children. There were six of the men got clear, and one woman saved, and all the rest of them got killed. The children were took by the leg, and their brains dashed out against the boat.”

If the bare recital of scenes like these cannot be perused without shuddering, what must be the agonized feelings of those whose wives and children are from day to day, and from night to night, exposed to be the victims of the same barbarity? Has mercy a voice to plead for the perpetrators and instigators of deeds like these?—Should inquiry hereafter be made, why, within three months after this event, the savage Hamathli-Meico, upon being taken by the American troops, was by order of their commander immediately hung, let it be told, that that savage was the commander of the party, by which those women were butchered, and those helpless infants were thus dashed against the boat. Contending with such enemies, although humanity revolts at entire retaliation upon them, and spares the lives of

their feeble and defenceless women and children, yet mercy, herself, surrenders to retributive justice the lives of their leading warriors taken in arms, and still more the lives of the foreign, white incendiaries, who, disowned by their own governments, and disowning their own natures, degrade themselves beneath the savage character, by voluntarily descending to its level. Is not this the dictate of common sense? Is it not the usage of legitimate warfare? Is it not consonant to the soundest authorities of national law? "When at war (says Vattel) with a ferocious nation, which observes no rules, and grants no quarter, they may be chastised in the persons of those of them who may be taken; they are of the number of the guilty, and by this rigor the attempt may be made of bringing them to a sense of the laws of humanity." And again: "As a general has the right of sacrificing the lives of his enemies to his own safety or that of his people, if he has to contend with an inhuman enemy, often guilty of such excesses, he may take the lives of some of his prisoners, and treat them as his own people have been treated." The justification of these principles is found in their salutary efficacy, for terror, and for example.

It is thus only that the barbarities of Indians can be successfully encountered. It is thus only that the worse than Indian barbarities of European impostors, pretending authority from their governments, but always disavowed, can be punished and arrested. Great Britain yet engages the alliance and co-operation of savages in war. But her government has invariably disclaimed all countenance or authorization to her subjects to instigate against us in time of peace. Yet so it has happened, that, from the period of our established independence to this day, *all* the Indian wars with which we have been afflicted, have been distinctly traceable to the instigation of English traders or agents. Always disavowed, yet always felt; more than once detected, but never before punished; two of them, offenders of the deepest dye, after solemn warning to their government, and individually to one of them, have fallen, *flagrante delicto*, into the hands of an American general; and the punishment inflicted upon them has fixed them on high, as an example, awful in its exhibition, but we trust auspicious in its results, of that which awaits unauthorized pretenders of European agency, to stimulate and interpose in wars between the United States and the Indians within their control.

This exposition of the origin, the causes, and the character, of the war with the Seminole Indians, and part of the Creeks, combined with M'Gregor's mock Patriots and Nicholls's negroes which necessarily led our troops into Florida, and gave rise to all those incidents of which Mr. Pizarro so vehemently complains, will, it is hoped, enable you to present other and sounder views of the subject to his catholic majesty's government.

It will enable you to show, that the occupation of Pensacola and St. Marks was occasioned neither by a spirit of hostility to Spain, nor with a view to extort prematurely the province from her possession; that it was rendered necessary by the neglect of Spain to per-

form her engagements of restraining the Indians from hostilities against the United States, and by the culpable countenance, encouragement, and assistance, given to those Indians, in their hostilities, by the Spanish governor and commandant at those places; that the United States have a right to demand, as the President does demand, of Spain, the punishment of those officers for this misconduct; and he further demands of Spain a just and reasonable indemnity to the United States for the heavy and necessary expenses, which they have been compelled to incur, by the failure of Spain to perform her engagements to restrain the Indians, aggravated by this demonstrated complicity of her commanding officers with them, in their hostilities against the United States—That the two Englishmen, executed by order of general Jackson, were not only identified with the savages, with whom they were carrying on the war against the United States, but that one of them was the mover and fomentor of the war, which, without his interference and false promises to the Indians of support from the British government, never would have happened; that the other was the instrument of war against Spain as well as the United States, commissioned by M'Gregor and expedited by Woodbine, upon their project of conquering Florida, with these Indians and negroes; that, as accomplices of the savages, and, sinning against their better knowledge, worse than savages, general Jackson, possessed of their persons and of the proofs of their guilt, might, by the lawful and ordinary usages of war, have hung them both without the formality of a trial; that, to allow them every possible opportunity of refuting the proofs, or of showing any circumstance in extenuation, of their crimes, he gave them the benefit of trial by a court martial of highly respectable officers; that the defence of one consisted solely and exclusively of technical cavils at the nature of part of the evidence against him, and the other confessed his guilt; finally, that, in restoring Pensacola and St. Marks to Spain, the President gives the most signal proof of his confidence, that hereafter her engagement to restrain by force the Indians of Florida from all hostilities against the United States, will be effectually fulfilled—that there will be no more murders, no more robberies, within our borders, by savages, prowling along the Spanish line, and seeking shelter within it, to display in their villages the scalps of our women and children, their victims, and to sell, with shameless effrontery, the plunder from our citizens, in Spanish forts and cities—that we shall hear no more apologies from Spanish governors and commandants of their inability to perform the duties of their office and the solemn contracts of their country, no more excuses for compliances to the savage enemies of the United States from the dread of their attacks upon themselves, no more harboring of foreign impostors upon compulsion—that a strength sufficient will be kept in the province, to restrain the Indians by force, and officers empowered and instructed to employ it effectually to maintain the good faith of the nation by the effective fulfilment of the treaty. The duty of this government to protect the persons and pro-

erty of our fellow-citizens on the borders of the United States is imperative: it *must* be discharged: and if after all the warnings that Spain has had—if after the prostration of all her territorial rights and neutral obligations, by Nicholls and his banditti, during war, and of all her treaty-tipulations, by Arbuthnot and Armbrister, abetted by her own commanding officers, during peace, to the cruel annoyance of the United States—if the necessities of self-defence should again compel the United States to take possession of the Spanish forts and places in Florida, declare, with the frankness and candor that become us, that another unconditional restoration of them must not be expected; that even the President's confidence in the good faith and ultimate justice of the Spanish government, will yield to the painful experience of continual disappointment; and that, after unwearied and almost unnumbered appeals to them for the performance of their stipulated duties, in vain, the United States will be reluctantly compelled to rely for the protection of their borders upon themselves alone.

You are authorized to communicate the whole of this letter, and the accompanying documents, to the Spanish government.

I have the honor, &c. &c.

(Signed)

JOHN QUINCY ADAMS.

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*Extract of a letter, No. 9, from Mr. Adams to Mr. Erving, dated*

*Department of State,  
Washington, December 2, 1818.*

“ On the 27th of March last, the Spanish minister here, Mr. Onis, addressed a letter to this department, for the professed purpose of vindicating the character and conduct of the Spanish commanding officers in Florida, and of proving that they had invariably discharged their duties of friendly proceeding towards the United States, and the obligations of the treaty of 1795, by which Spain was bound to restrain, by force, the hostilities of her Indians in Florida, against the United States. To this letter are annexed fourteen documents; the greater part of which consist of remonstrances, addressed during the late war between the United States and Great Britain, to British officers, against their continual violations of the neutrality of the Spanish

territory. It is not however to those documents, but to the two numbered 13 and 14, as annexed to that letter, [66, 67,] that I wish to invite your attention. No. 13 is the *translation* of a letter, purporting to be from Bowlegs, one of the Seminole Indian chiefs, most inveterately hostile to the United States, to Don Jose Coppinger, governor of St. Augustine; a translation you will say—why a translation? and from what language? Neither governor Coppinger, nor Mr. Onis have furnished the means of answering that question. They are furnished however by the papers of Arbuthnott, which fell into general Jackson's hands. The language was English, and the original was written by Arbuthnott. The draught was found among his papers, and was produced to the court martial upon his trial, [49, No. 2, p. 34.] We naturally suppose that governor Coppinger, upon receiving a letter in English, from a Seminole Indian chief, must have been surprised, unless he knew from whom and whence it came. The substance of his answer shows that he did know, both whence it came, and the character of him by whom it was written. By the copies of the two letters, which are enclosed, you will see, in that of Bowlegs, a part of the systematic intrigues of Arbuthnott, to instigate, as well the Spanish commanders in Florida, as the savages, against the United States; and in that of governor Coppinger, a direct declaration to the Indians, that all his supposed causes of alarm and complaint, proceed "from the information of persons in whom he ought not to place the smallest confidence, it being their principle to employ such opportunities for the purpose of seducing him and his people from their daily labor." After offering his own friendly advice, the governor adds, "I am fearful, however, that the sentiments of those, who come into the territory, under the appearance of friendship, but with bad intentions, may influence your minds, and obtain your confidence, by their flattering representations." And finally, he complains that two persons had lately presented themselves as commissioners of the English nation, and carried off several runaway negroes, belonging to inhabitants of the province. It is apparent from this letter, that governor Coppinger was well informed of the operations of Arbuthnott and Woodbine, and that he saw them in their true colours. How then does it happen, that a year afterwards the Spanish commandant at St. Marks, is found so entirely leagued with Arbuthnott, as to sign his name to the approbation of a power of attorney, given to him by the hostile chiefs, to write letters and deliver talks, in their names; to hold councils of war with them at his quarters; to hold as prisoners, white persons, inhabitants of the province, taken by them, and to write a letter to Arbuthnott, asking him to come and confer with him upon subjects, which could not be committed to paper. The original of that letter, which is in bad French, and in the hand writing of the commandant of St. Marks, signed by him, is in our possession, [48.] A copy of it is among the papers enclosed. We cannot doubt that the Spanish government will consider it as a proof of the conspiracy of the commandant of St. Marks, with Arbuthnott and the Indians, against the

United States. Should he be put upon his trial, as you are instructed to demand, the original letter itself will be transmitted, to be exhibited to the court.

It is to be observed, that the original draught in Arbuthnott's hand writing, of the letter from Bowlegs to governor Coppinger, differs in several paragraphs from the translation communicated by Mr. Onis, as received by him from governor Coppinger. The following passage particularly, which appears in the draught, produced before the court martial, is not in the translation furnished by governor Coppinger. "The Spanish subjects in the Floridas are too much in the interests of the Americans to be our friends. For the governors, I shall always entertain the greatest regard; but for the people, they do not act so as to merit my esteem and protection." The remainder of the letter is nearly the same. We do not suppose that the omission was made by the governor, but rather that Arbuthnott, yet uncertain how such a reflection would be received, omitted it from the letter itself, which was transmitted to the governor.

The papers marked 62, 63, 64, and 68, are copies of originals, in the hand writing of Arbuthnott, taken with the rest of his papers; but not exhibited before the court martial. The sheet of his journal is of some importance, as establishing his connexion and dissatisfaction with Woodbine. 65 is a letter from him, said to be to an officer of rank, in England, (no doubt Nicholls,) dated 30th January, 1818, only three months before he was taken. The sheet of the journal, shows that Arbuthnott arrived, with Woodbine, from New Providence, at Suwany, about the last of October, 1816, and that they immediately commenced their operations with the Indians, against the United States. Bowlegs's letter to governor Coppinger, is dated the 18th of November, of that year, and apologizes for his not having sooner answered a letter of September, from the governor, by the impossibility he had been under of finding a person to write the answer from him. Among other complaints against Woodbine, in this journal, there is one, distinctly, that he had promised the savages assistance from the British government, without authority, and by direct falsehood, and he expresses an apprehension, that when the Indians find out that none of those promises are realized, their fury will fall upon himself."

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No. 1.

*Nicholls's letter and proclamation.*

*Head Quarters, Pensacola, August 31st, 1814.*

SIR,

I have arrived in the Floridas for the purpose of annoying the only enemy Great Britain has in the world. As France and Eng-

land are now friends, I call on you, with your brave followers, to enter into the service of Great Britain, in which you shall have the rank of *captain*. LANDS will be given to you all, in proportion to your respective ranks, on a peace taking place; and I invite you out on the following terms: your property shall be guaranteed to you, and your person protected. In return for which, I ask you to cease all hostilities against Spain, or the allies of Great Britain. Your ships and vessels to be placed under the orders of the commanding officer on the station, until the commander in chief's pleasure is known; but I guarantee their fair value at all events.

I herewith enclose you a copy of my proclamation to the inhabitants of Louisiana, which will, I trust, point out to you the honorable intentions of my government; you may be a useful assistant to me, in forwarding them; therefore, if you determine, lose no time; the bearer of this, captain M'Williams, will satisfy you on any other points you may be anxious to learn, as will captain Lockyer, of the *Sophia*, who carries him to you. We have a powerful reinforcement on the way here, and I hope to cut out some other work for the Americans, than oppressing the inhabitants of Louisiana. Be expeditious on your resolves, and rely upon the veracity of

Your humble servant,

(Signed) EDWARD NICHOLLS,

*Lt. col. com. H. B. M. forces in the Floridas.*

*To Mons. Laffite, or the commandant at Barataria.*

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*By Lieutenant Colonel Edward Nicholls, commanding H. B. M. forces in the Floridas.*

Natives of Louisiana, on you the first call is made, to assist in liberating from a faithless and imbecile government, your paternal



soil. Spaniards, Frenchmen, Italians, and British, whether settled or residing for a time in Louisiana, on you I also call to aid me in the just cause. The American usurpation in this country must be abolished, and the lawful owners of the soil put in possession. I am at the head of a large body of Indians, well armed, disciplined, and commanded by British officers. A good train of artillery, with every requisite, seconded by the powerful aid of a numerous British and *Spanish* squadron of ships and vessels of war. Be not alarmed, inhabitants of the country, at our approach; the same good faith and disinterestedness which has distinguished the conduct of Britons in Europe, accompanies them here. You will have no fear of litigious taxes imposed on you, for the purpose of carrying on an unnatural and unjust war; your property, your laws, the peace and tranquillity of your country, will be guaranteed to you by men who will suffer no infringement of theirs; rest assured, that these brave men only burn with an ardent desire of satisfaction for the wrongs they have suffered from the Americans, to join you in liberating these southern frontiers from their yoke, and drive them into the limits formerly prescribed by my sovereign. The Indians have pledged themselves in the most solemn manner, not to injure in the slightest degree, the persons or properties, of any but enemies to their *Spanish or English* fathers. A flag over any door, whether Spanish, French, or British, will be a sure protection. Nor dare any Indian put his foot on the threshold thereof, under penalty of death from his own countrymen. Not even an enemy will an Indian put to death, except resisting in arms, and as for injuring helpless women and children, the red men, by their good conduct and treatment to them, will, if it be possible, make the Americans blush for their more than inhuman conduct lately, on the Escambia, and within a neutral territory.

Inhabitants of Kentucky, you have too long borne with grievous impositions. The whole brunt of the war has fallen on your brave sons; be imposed on no more; but either range yourselves under the standard of your forefathers, or observe a strict neutrality. If you comply with either of these offers, whatever provisions you send down, will be paid for in dollars, and the safety of the persons bringing it, as well as the free navigation of the Mississippi guaranteed to you. Men of Kentucky, let me call to your view, and I trust, to your abhorrence, the conduct of those factions, which hurried you into this cruel, unjust and unnatural war, at a time when Great Britain was straining every nerve in the defence of her own, and the liberties of the world, when the bravest of her sons were fighting and bleeding in so sacred a cause; when she was spending millions of her treasure in endeavoring to pull down one of the most formidable and dangerous tyrants that ever disgraced the form of man; when groaning Europe was almost in her last gasp, when Britain alone showed an undaunted front, basely did these assassins endeavor to stab her from the rear; she has turned on them, renovated from the bloody but successful struggle. Europe is happy and free, and she now hastens justly to

avenge unprovoked insults. Show them that you are not collectively unjust, leave that contemptible few to shift for themselves; let those slaves of the tyrant send an embassy to Elba, and implore his aid; but let every honest, upright American spurn them with merited contempt. After the experience of twenty one years, can you any longer support those brawlers for liberty, who call it freedom, and know not when themselves are free; be no longer their dupes, accept of my offer, every thing I have promised in this paper, I guarantee to you on the sacred honor of a British officer.

Given under my hand, at my head quarters, Pensacola, the 29th of August, 1814.

(Signed) EDWARD NICHOLLS.

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(No. 2. a.)

*Copy of a letter from Col. Nicholls to Col. Hawkins.*

*Appalachicola, 28th April, 1815.*

Being absent from this post when your letter of the 19th ult. arrived, I take this opportunity to answer it. On the subject of the negroes lately owned by the citizens of the United States, or Indians in hostility to the British forces, I have to acquaint you, that, according to orders, I have sent them to the British colonies, where they are received as free settlers, and lands given to them. The newspaper you sent me, is I rather think, incorrect; at all events, an American newspaper cannot be authority for a British officer. I herewith enclose you a copy of a part of the 9th article of the treaty of peace relative to the Indians in alliance with us; they have signed and accepted it as an *independent* people, solemnly protesting to suspend all hostilities against the people of the United States. Within these few days I have had a complaint from the Seminole's chief Bowlegs. He states, that a party of American horse, have made an incursion into the town, killed one man, wounded another, and stole some of his cattle; also that they have plundered some of his people on their peaceable way from St. Augustine. May I request of you to inquire into this affair, and cause justice to be done to the murderer, and have the cattle restored. I strictly promise you that for any mischief done by the Creeks under me, I shall do all in my power to punish the delinquents and have the property restored.

The chiefs here have requested me further to declare to you (that in order to prevent any disagreeable circumstances from happening in future) they have come to a determination not to permit the least intercourse between their people and those of the United States. They have, in consequence, ordered them to cease all communication directly or indirectly with the territory or citizens of the United States; and they do take this public mode of warning the citizens of the United States from entering their territory, or communicating directly or indirectly with the Creek people. They also request that you will understand their territories to be as they stood in the year 1811. In my absence I have directed first lieutenant Wm. Hamley, the head interpreter, to communicate with you on any point relative to the Creeks; and I have given him my most positive orders, that he shall at all times do his best to keep peace and good neighborhood between the Creeks and your citizens.

I am, sir, your very humble servant,

(Signed)

EDWARD NICHOLLS,

*Commanding the British forces in the Floridas.*

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No. 2. b.

*Paper enclosed in the above letter.*

Part of the 9th article of the treaty of peace between his Britannic majesty and the United States, relative to the Indians who have been in alliance with Great Britain and in hostilities with the United States.

The United States of America engage to put an end immediately after the ratification of the present treaty, to hostilities with all the tribes or nations of Indians with whom they may be at war at the time of such ratification, and forthwith to restore to such tribes or nations respectively all the possessions, rights and privileges which they may have enjoyed, or been entitled to in 1811, previous to such hostilities, provided always that such tribes or nations shall agree to desist from all hostilities against the United States of America, their citizens and subjects upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly.

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We the undersigned, chiefs of the Muscogee nation, declared by his Britannic majesty to be a free and independent people, do, in the name of the said nation, agree to the 9th article of the treaty of peace

between his Britannic majesty and the United States. And we do further declare that we have given most strict and positive orders to all our people that they desist from hostilities of every kind, against the citizens or subjects of the United States.

Given under our hands at the British fort on the Appalachicola, the 2d day of April, 1815.

his  
HEPOAETH MEICO, x  
mark

his  
CAPPACHIMICO, x  
mark

his  
HOPOY MEICO, T. P.  
mark

*Witnesses,*

*Edward Nicholls, Lieut. Col. commanding the Indians.*

*R. Bankes, com. H. M. brig Forward.*

*G. Woodbine capt. 1st Br. R. C. M.*

*Wm. Hambly, first lieut. R. C. M. and head interpreter.*

I certify on honor that this is a true copy of the original.

**ELI LESTER, U. S. S. keeper, Fort Lawrence.**

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No. 3.

*Col. Nicholls to Col. Hawkins.*

*British post, Appalachicola river, May 12th, 1815.*

In my letter to you of the 28th ult. I requested you would be so good as to make inquiry into the murder and robberies committed on the Seminoles belonging to the chief called Bowlegs, at the same time declaring my determination of punishing with the utmost rigor of the law any one of our side who broke it. Of this a melancholy proof has been given in the execution of an Indian of the Ataphalgo town by Hothly Poya Tustunnugee chief of Ocmulgee, who found him driving off a gang of cattle belonging to your citizens, and for which act of justice, I have given him double presents, and a chief's gun, in the open square before the whole of the chiefs; and highly extolled him.

These, sir, are the steps I am daily taking to keep the peace with sincerity; but I am sorry to say the same line is not taken on your side, nor have you written to say what steps you are taking, or intend to take to secure this mutual good. Since the last complaint from Bowlegs, I have had another from him to say your citizens have again attacked and murdered two of his people, that they had stolen a gang of his cattle, but that he had succeeded in regaining them.

I asked him what proof they had of their being killed. They said they had found their bloody clothes in the American camp, which was hastily evacuated on their approach: Now, sir, if these enormities are suffered to be carried on in a christian country, what are you to expect by showing such an example to the uncultivated native of the woods, (for savage I will not call them, their conduct entitles them to a better epithet.) I have, however, *ordered them to stand on the defensive, and have sent them a large supply of arms and ammunition, and told them to put to death, without mercy, any one molesting them; but at all times to be careful, and not put a foot over the American line.* In the mean time, that I should complain to you, that I was convinced you would do your best to curb such infamous conduct. Also, that those people who did such deeds, would, I was convinced, be disowned by the government of the United States, and severely punished. *They have given their consent to await your answer, before they take revenge; but sir, they are impatient for it, and well armed as the whole nation now is, and stored with ammunition and provisions, having a strong hold to retire upon in case of a superior force appearing. picture to yourself, sir, the miseries that may be suffered by good and innocent citizens on your frontiers, and I am sure you will lend me your best aid in keeping the bad spirits in subjection.* Yesterday, in a full assembly of the chiefs, I got them to pass a law, for four resolute chiefs to be appointed in different parts of the nation, something in the character of our sheriffs, for the purpose of inflicting condign punishment on such people as broke the law; and I will say this much for them, that I never saw men execute laws better than they do. *I am also desired to say to you by the chiefs, that they do not find that your citizens are evacuating their lands, according to the 9th article of the treaty of peace, but that they were fresh provisioning the forts.* This point, sir, I beg of you to look into. They also request me to inform you, that they have signed a treaty of offensive and defensive alliance with Great Britain, as well as one of commerce and navigation, which, as soon as it is ratified at home, you shall be made more fully acquainted with.

I am, sir, your very humble servant,

(Signed)

EDWARD NICHOLLS,

*Commanding his B. M. forces in the Creek nation.*

*Addressed—on his Britannic majesty's service,*

*to Col. Benjamin Hawkins, commanding at Fort Hawkins.*

No. 4.

*Colonel Hawkins to Colonel Nicholls.**Creek Agency, 24th May, 1815.*

On the 18th I had the pleasure to receive your communication of the 28th ultimo. I expected, from the tenor of your orders which I conveyed to you from admirals Cochrane and Cockburn, on the 19th of March, that you had left the Floridas ere this, with the British troops under your command; and that Spain and the United States would have no more of British interference in the management of their Indian affairs. The newspaper I sent you, was one in which the official acts of our government are published. There could be no motive for falsification; your deeming it incorrect, must have proceeded from a knowledge that your conduct in relation to the negroes was at variance with it. It would have been acceptable in the communication relative to the disposition of "the negroes taken from the citizens of the United States, or *Indians in hostility to the British*," to have received the number, particularly belonging to the latter. As peace is restored between Great Britain and the United States, I feel a reluctance to put on paper, any thing that may have the tendency to tarnish the British character, or that of any officer of its government; but I owe it to the occasion, to state the declaration of captain Henry, that "*the English are sent out by their great father and king, to restore his Indian people to their lands; and we are desired by him not to take away their negroes, unless they freely give them to us, or sell them for money*, is violated. It is proper, also, to add, I did not enrol any Indians into the service of the United States, until after the negroes of Marshall, Stedham, and Kinnard, three half breeds, were taken from them by force or stratagem, by British officers. Your restriction of the captain's declaration to negroes belonging to Indians friendly to Great Britain, - if, by that, is meant Indians hostile to the United States, is an erroneous one, as there is not one Creek who has negroes so situated.

The Creek chiefs, to use a courtly phrase, have just cause, at least, to say this is an "unjustifiable aggression." You having acted by orders, and it being now beyond your control, a remedy must and will be sought for elsewhere.

The documents you enclose, signed by three chiefs, purporting to be the agreement of the Muscogee nation, to the 9th article of the treaty of peace, I shall lay before the chiefs of the nation, at a convention, soon to be held at Cowetau, and send you the result of their deliberations on it. The result of my reflections, with due deference I give you, as on the envelope it purports to be *on his Britannic majesty's service*. It is within my knowledge, one of the chiefs is a Seminole of East Florida, and has never resided in the United States; and that neither of the three has ever attended the national

councils of the Creeks, or are in any way a part of their executive government. If the four witnesses had signed it as principals, and the three chiefs as witnesses, it would have been entitled to equal respect from me.\* Could you be serious in communicating such a nullity with their mock determination not to permit the least intercourse between their people, (meaning the Creek nation) and those of the United States, &c. As to the territory of the Seminoles, it being out of the United States, is an affair between them, and the government of Spain, and that of the Creek, is as fixed and guaranteed in their treaty stipulations with the United States. I do not know that any occurrences can happen, which will render it necessary for me to communicate with lieutenant William Hambly. If by doing so, I can render acts of kindness to Indians or others, it would afford me pleasure; but, under present impressions, the 5th article of the treaty of friendship, limits, and navigation between the United States, and the king of Spain, will govern me in all cases, respecting the Indians in the two Floridas.

I am with due regard, Sir,

Your obedient servant,

(Signed) BENJAMIN HAWKINS.

No. 5.

*Colonel Hawkins to Colonel Nicholls,*

*Creek Agency, 28th May, 1815.*

On the 24th, I wrote to you in reply to yours of the 28th ultimo, and since, have had the pleasure to receive yours of the 12th. I had received from Bowlegs, direct, a complaint of an outrage committed "by the people of Georgia, who had gone into East Florida, driven off his cattle, and destroyed his property." I have sent this complaint to the governor of Georgia, who will readily co operate with the officers of the general government, to cause justice to be done to the injured, if the complaint is true. The laws of the United States,

\* Note. The witnesses, we believe, were colonel Nicholls, captain Woodbine, lieutenant Hambly, and captain Henry.

provide completely for the protection of the Indian rights, and those interested with their execution, have the power of doing it. All that is wanted is a proof against the transgressors.

The Indians of Aulotchwan, who, without provocation, murdered and plundered a number of the subjects of Spain on St. Johns, have engendered such a deadly feud between the parties, that it will be long before the descendants of the injured can forget and forgive. Spain, from her internal commotions, has not found it convenient to settle a peace between them; and these people, it is probable, are taken for Georgians. The Indians of this Agency, as well as those in the Floridas, have long known they have to apply through their chiefs, to me, for a redress of their grievances. The government of the Creeks is not an ephemeral one. Its last modification is of more than ten years standing. It was the work and choice of the nation, and has a check on the conduct of the Seminoles.

In 1799, a gentleman arrived where you are from England, who had been an officer on half pay. He came in the Fox sloop of war, furnished by the admiral on the Jamaica station, by order of the admiralty, "to facilitate to him a passage to his nation the Creeks." This gentleman, after attempting in various ways with the Seminoles, to usurp the government of the Creeks without success, created himself director general of Muscogee, declared war against Spain, murdered some of his subjects, and took St. Marks. He ordered me, with my assistants in the plan of civilization, out of the Creek nation.

I communicated his proceedings to the national councils, who had been previously acquainted with him, and who replied to him, that he had a title among them which he well merited, Cap, pe, tun, nee, lox, au, (the prince of liars) and no other." This director general of Muscogee, after playing a farce for two years, experienced a tragic scene, which deprived him of his liberty. He was put in irons by order of the council whose government he attempted to usurp, and sent to the governor general of Louisiana, to answer for his crimes. His Seminole chiefs were glad to retire with impunity. After this, it was unanimously determined, in a national council of distinguished chiefs from every town, and a deputation of Choctaws, Chickasaws, and Cherokees, that the warriors should be classed, and held in readiness to execute the orders of the executive council, and that the agent for Indian affairs should have the power of executing the treaty stipulations of the Creeks with their white neighbors. Tookaubatche and Cowetau, alternately, as the occasion required, was appointed the permanent seat of their national councils, where national affairs alone could be transacted. They have now two speakers. When the council meets at Cowetau, Tustunnuggee Hopoie, as speaker for the Lower Creeks, is speaker for the nation; and when they meet at Tookaubatche, Tustunnuggee Thlucco, of the Upper Creeks, is speaker for the nation. Cowetau is head quarters for the present. The agent for Indian affairs can convene the council.



To this council, I communicated, in your own words, the pretensions of your three chiefs. They answer, "We have had colonel Nicholls' communication before us—that Hapoith Micco, Caupachau Micco, and Hapoie Micco, are the sovereigns of this nation. We know nothing about them as such. We have often invited them to attend our talks. They never would come forward, and Hapoith Micco is a hostile Indian. They have nothing to do with our affairs. They reside in the Spanish territory."

After mentioning a solitary effort of yours "to keep the peace," you say, "I am very sorry to say the same line is not taken on your side, nor have you written to me to say what steps you are taking, or intend to take, to secure this mutual good." You could not have expected I should communicate with you, when, from your orders you were so soon to leave the country. I have communicated to the national council, several outrages committed by bandittis from the Seminoles, and other parts, upon the post road and frontiers of Georgia, repeatedly. They have in two instances had the guilty shot, and sent armed parties after others. As late as the 17th April, one man was killed, and four wounded, on the post road. Our wagons twice attacked, and one wagoner killed, several horses taken and carried, as reported, to your depot, at the very time the wagons were carrying seed corn for the Indians, and flour for the support of nearly 5000, totally destitute of food.

The measure in operation here, to preserve peace, is with an efficient force, red and white troops, to pursue, apprehend, and punish, all violators of the public peace. The executive council of the Creeks, are continually at Cowetau, with an assistant agent to take orders with the warriors when the necessity is apparent, and to call on me, when the aid of regular troops is necessary. We do not rely on the exertions of any one, but ourselves, to preserve peace among the Creeks, and between them and their neighbors of the United States, and the Floridas. We examine fairly, spare the innocent and punish the guilty; and in no case suffer revenge to carve for itself.

On an exparte hearing, you have "armed the Seminoles, and given orders to put to death, without mercy, any one molesting them." This is cruelty without example, scalping men, women, and children, for troubling or vexing only, and the executioners the judges. To gratify their revenge, the good and innocent citizens on the frontiers, are to be the victims of such barbarity. Suppose a banditti were to commit a violent outrage, such as that of the 17th April, are we to charge it on the unoffending people of the frontiers, and kill them without mercy, if we could not find out the guilty? You have issued the order, provided and issued munitions of war for its execution, prepared and provisioned a strong hold to retire upon, in case of superior force appearing, to protect them in this mode of gratifying their revenge. You will be held responsible, and your strong holds will certainly not avail. If you are really on the ser-

vice of his Britannic majesty, it is an act of hostility which will require to be speedily met, and speedily crushed. But, Sir, I am satisfied you are acting for yourself, on some speculative project of your own. The sovereign of Great Britain, could not, from his love of justice in time of peace, his systematic perseverance in support of legitimate sovereigns, almost to the impoverishing of his own nation, suffer any of his officers to go into a neutral country to disturb its peace.

If the Seminolie Indians have complaints to make, if they will do it through the chiefs of the Creek nation, or direct to me, or through an officer of his catholic majesty, as heretofore, I will cause justice to be done. In cases of murder, the guilty, if practicable, shall be punished, in case of theft restitution shall be made.

The treaties you have made for the Creek nation, with the authority created by yourself for the purpose, must be a novelty. It would surprise me much to see your sovereign ratify such as you have described them to be, with a people such as I know them to be, in the territories of his catholic majesty. I shall communicate what has passed on the subject between us, to the officers of Spain in my neighborhood, that they may be apprized of what you are doing.

As you may not have recent news from Europe, I send you some newspapers detailing important events there on the 4th of April.

I am, &c.

BENJAMIN HAWKINS,

*Agent for Indian Affairs.*

*To Colonel Nicholls,*

*Commanding H. B. M. forces, Appalachicola.*

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No. 6. a.

*General Gaines to the Secretary of War.*

*Head Quarters, Fort Stoddert, M. T.*

SIR,

*May 14, 1815.*

I have the honor to enclose herewith, the deposition of Samuel Jervais, which, taken in connexion with other accounts recently received from Apalachicola, and a letter from lieutenant colonel Saf-

old, of the territorial militia, a copy of which is also enclosed, leave little doubt, that these deluded savages meditate a renewal of the war upon our frontier inhabitants.

I shall visit forts Montgomery and Claiborne, and endeavor to ascertain, without loss of time, the real designs of the Indians; and should they be for war, shall assemble a force to meet them.

The remains of the 2d and 3d regiments infantry, are now at the Pass Christian, and may be brought to this frontier in a few days; and added to the remains of the 24th and 39th, now at fort Montgomery, will give us a force of near 1000 men. With this force I shall be able to keep the Indians in check, and with another thousand, to consist of Choctaws and volunteers, I should feel sufficiently strong to make a decisive stroke upon the depots at Apalachicola, which I persuade myself the government may be at liberty to sanction; for until these depots (if they really exist) are destroyed, our frontier cannot but continue to be extremely insecure.

I am unable to say, how far the statement of Jervais is entitled to credit; but I have examined him attentively, and am under a strong impression that he has stated the truth; and that the supplies mentioned in his deposition, are not mistaken for those delivered last fall, but have really been delivered since the ratification of the treaty had been officially announced to the British troops at Apalachicola. These supplies were, however, brought to Apalachicola previous to the ratification of the treaty.

I have ordered the commanding officers of posts and corps, to hold their commands ready for active service; and have taken measures to prepare a small train of light artillery, with a proper supply of fixed ammunition, tools, camp equipage, &c. &c. for an Indian campaign. Whilst Spain permits our enemy to assemble forces, and make military depots for our annoyance, within her territory, surely she can make no reasonable objection to our visiting those depots. Besides, Spain is expressly bound by treaty "to restrain by force all hostilities on the part of the Indian nations living within her boundary." If she does not restrain them, we may conclude, that she has endeavored to do so, but is unable. Can she blame us, then, for restraining them ourselves?

I have the honor to be,  
With the greatest respect and esteem,  
Sir, your obedient servant,

EDMUND P. GAINES.

*Major general by brevet.*

*The honorable A. J. Dallas,  
acting as Secretary at War, Washington City.*

P. S. I have written to major general Jackson upon the above subject, but as he is probably on his way to Washington, I have thought proper to address you direct.

E. P. G.

No. 6. b.

*Deposition of Samuel Jervais, enclosed in the above letter.*

Samuel Jervais, being duly sworn, states, that he has been a sergeant of marines in the British service for thirteen years past. That about a month ago he left Apalachicola, where he had been stationed for several months. That the English colonel, Nicholls, had promised the hostile Indians at that place, a supply of arms, and ammunition, a large quantity of which had been delivered to them a few days before his departure, and after the news of a peace between England and the United States being confirmed, had reached Apalachicola. That among the articles delivered were, of cannon four 12 pounders; one howitzer, and two cohorns; about three thousand stand of small arms, and near three thousand barrels of powder and ball. That the British left with the Indians between three and four hundred negroes, taken from the United States principally from Louisiana. That the arms and ammunition were for the use of the Indians, and negroes, for the purposes as it was understood, of war with the United States. That the Indians were assured by the British commander, that according to the treaty of Ghent all the lands, ceded by the Creeks, in treaty with general Jackson were to be restored; otherwise the Indians must fight for those lands, and that the British, would in a short time assist them.

[Signed]

his  
SAML. ✕ JERVAIS.  
mark

Sworn and subscribed to before me, this 9th May, 1815, at the town of Mobile.

[Signed]

L. JUDSON, J. P.

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No. 7.

*General Gaines to A. J. Dallas, acting Secretary at War.*

*Head Quarters, Fort Stoddert, M. T.*

*May, 22d, 1815.*

SIR,

I returned last night from fort Montgomery, where, though unable to obtain satisfactory information, as to the hostile intentions o

the Creek Indians, I learned that two of the party, mentioned in my last, had been killed, and some others wounded: and that the Indians had afterwards killed two of our citizens, a Mr West, and another, whose name, my informant, colonel Files, (from the settlement of Alabama, near where the act was perpetrated) had forgotten.

Some negro men, belonging to Don M'Gill, of Mobile, taken some months ago to Apalachicola, by the British, voluntarily returned a few days past. Their statement of the supplies and negroes, left by the British, corresponds with that, contained in the deposition of Jervais, enclosed in the letter which I had the honor to address to you on the 14th instant. The negroes add, that there are at Apalachicola nearly 800 Indian warriors, and that the negroes were permitted to remain with the Indians as freemen, or return to their masters, as they should elect, and that but few had agreed to return.

I feel convinced that the Indians are generally under the impressions that the lands ceded to the United States, by the treaty with general Jackson, must be restored, or that a war must ensue; and that their friends, the British, will re-establish them in the possession of these lands.

So industriously have these impressions been circulated by the British and Spanish agents among the Indians, that so far as I can learn, not only the chiefs, but the common warriors, are in the habit of saying, that the British treaty with the Americans, gives the Indians their lands, taken by the treaty with general Jackson.

Since writing the above, I have been furnished with the enclosed deposition of S. Dale, who is a major of militia.

I have the honor to be,

Most respectfully,

Sir, your obedient servant,

EDMUND P. GAINES,

*Major general by brevet.*

P. S. Since closing my letter, I learn that Nicholls, said to be a colonel in the British service, is still at Apalachicola, and that he has 900 Indians, and 450 negroes under arms. This account is brought by a very intelligent negro man, belonging to D. Kennedy, at Mobile. I think it goes to strengthen the accounts heretofore given, in my letter of the 14th instant.

E. P. GAINES.

*The Hon. A. J. Dallas,*

*Acting Sec'y at War, Washington City.*

*Memorandum of a gentleman of respectability at Bermuda.**St. George, (Bermuda,) 21st May, 1815.*

Capt. Rawlins, of H. M. ship *Borer*, has stated to me, in the course of various conversations, that at the time of his departure from Apalachicola, (which appears to have been about the 20th to the 28th April) the British had collected upwards of three hundred persons, at or near Prospect Bluff, partly deserters from the United States, and partly from the Spanish Provinces of East and West Florida. These people had been received and protected by colonel Nicholls of the royal marines, who was stationed at that place, and who appears to have been under the impression (at least he said so) that the Spanish authorities had no right to the country in that vicinity.

Admiral Cochrane, however, appears to have disapproved of Nicholls's conduct, in affording protection to the Spanish slaves; and had sent the Hon. captain Spencer to Pensacola, for the purpose of making arrangements for their restoration; who accordingly proceeded to Apalachicola, with captain Pentado, named commissioner on the part of the Spaniards.

It does not appear, that these gentlemen were successful in their mission; as it was understood, that the refugees were not to be coerced; but merely such facilities afforded to those, who voluntarily agreed to return, as might be found necessary.

Much altercation has arisen out of this commission, in consequence of many officers having espoused the cause of the slaves; and, at one time, the life of captain Spencer had been threatened by the negroes. Captain Rawlins adds, that much ammunition, and a good many stands of arms, with some pieces of artillery, had been left with them; and that the fort constructed by colonel Nicholls *would not be destroyed*

I have since learned, that the *Carron*, which must have sailed from Apalachicola, previous to the *Borer*, is arrived at Nassau, on her way to Bermuda, with 176 slaves of all ages. As she is daily expected, and as captain Spencer is now on his way here, it might be as well to wait their arrival, before you make any official communication to your government, on the subject. It is, however, obvious, that were you in possession of the whole facts, no time ought to be lost in recommending the adoption of speedy, energetic measures, for the destruction of a thing, held so likely to become dangerous to the state of Georgia. The Spaniards are not in a situation to do it, but I dare say would co-operate. I have learned, that the whole of the

slaves, brought from the United States, have been sent to Nova Scotia, with the exception of a few, that were lately shipped to the island of Trinidad, in H. M. ship the *Levant*; and such as have enlisted in the colonial marines, were in these islands. A few stragglers have contrived to get on shore in the Bermudas, and by the connivance of their colonized friends, to remain; very contrary to the wishes of the inhabitants, who are, in general, desirous of getting rid of them.

It has been whispered (I know not with what truth) that the people expected in the Carron, who are from Louisiana, and West Florida, are also to be sent to Trinidad.

The Carron is arrived; and this morning I understood from Messrs. James and Michael Carron, the agents of Sir Alexander Cochrane, the Carron was going to some part of the West Indies, unquestionably to Trinidad.



### No. 9.

*Address to the king of England. from the Indians, published in the English newspapers, of the 15th August, 1818.*

We, the chiefs of the Muscogee nation, in full council assembled, on behalf of ourselves, and our people, do make the following requests of our good father, king George, and declare to him certain resolutions we have come to, with our reasons for so doing.

We conceive it to be indispensably necessary for our good, as well as to make us useful allies of Great Britain, that British officers should be constantly kept among us, and we request that our good father will grant us this favor. Since colonel Brown left us, we have been a prey to civil dissensions, fomented and kept up by our inveterate and never to be satisfied foe, the Americans; by their bad advice has brother been in the act of shedding the blood of brother, and when the land becomes thus desolated, they possess themselves of it, so that we shall soon be driven to the desert sands of the sea, from the fertile fields of our forefathers; and we are told, that the Spaniards will not let us trade with the British from the mouths of our rivers; we, therefore, further request, that our good father will secure for us the mouths of the rivers Apalachicola, Alabama, and St. Ma-

ry's; for if our communication is once more cut off from his children, we shall be totally ruined; we have fought and bled for him against the Americans, by which we have made them our more bitter enemies, and as he has stood the friend of the oppressed nations beyond the great waters, he will surely not forget the sufferings of his once happy children here. We therefore rely on his future protection and his fatherly kindness; we will truly keep the talks which his chief has given us, if he is graciously pleased to continue his protection; famine is now devouring up ourselves and our children, by reason of our upper town brethren being driven down upon us, in the time the corn was green, and now their miseries and necessities cause them to root up the seed of our future crop, so that what we sow in the day, we are obliged to watch at night. Was it not for the powder we get from your chief, the whole of the nation would be in dust; the Red Sticks have shot and eat up almost the whole of our cattle; for they have seen their children digging in the woods for want, and who can blame them when they are pressed by such cruel necessity. Thus we are situated, and we are only looking to the departure or the stay of your children, as the signal of our destruction or prosperity. In former times, after the British left us, to show our love and regard for their nation, we made a grant of our lands to the house of Panton, Leslie and Co., and latterly to the house of John Forbes and Co. on certain terms, that they were to settle the lands with British men, and keep up a sufficient and good assortment of all sorts of merchandise suitable to our wants; but instead of their doing this, they have attempted to settle our lands with Americans, and have refused to supply us with powder, when we were attacked by our enemies, and have urged us to declare for the Americans against the British, and have offered rewards to us for that purpose, and they have actually written to their agents who reside among us, desiring them to obstruct the British officers, all in their power, from assisting us, and to represent to them, also, how impossible it would be for them to succeed against the Americans, and we having intercepted their letters, did deliver them to lieut. col. Nicholls, who is our witness, and the said letters were delivered by an Indian to John Forbes, at St. Augustine, to be forwarded by him as aforesaid; and as it does stand thus, on unquestionable proof, that the said house of Forbes and Co. have shamefully broken their contracts with us, we do, in this our full assembly, declare all their property in our nation, to be confiscated to the nation; and we further annul and declare void our grant or grants of lands accordingly, warning them, and all belonging to them, never to appear again in the nation. And the United States, or some part thereof, have thought proper to run a line or wagon road through the Indian nation, from Hartford, in Georgia, to Mobile, in West Florida, without our consent, and to our great hurt and annoyance.

We implore our good father that he will cause them to disuse the said road, and to cease all communication between them and us, as we are determined to cease having any communication with them,



and we warn all Americans to keep out of this nation. And whereas, that a young chief, called M'Intosh, was sent with a message of remonstrance against the abovementioned road being run, and of several other encroachments on the Tombigby, Cooza, and Alabama rivers; instead of his making such remonstrance, he suffered himself to be tricked by our enemy, and unlawfully sold to them a large tract of land, on and about the rivers Aconee, Oakemulgee, which tracts of land we implore our good father to use his endeavor in getting restoration of them, and that the Americans may be obliged to withdraw from them. The abovementioned M'Intosh holds a commission as major in the American army, and of the Creek regiment; he has caused much blood to be spilt, for which we denounce him to the whole nation, and will give the usual reward of the brave, to any one who may kill him, he having on a recent occasion, killed and scalped a brother, who was on an errand of peace to our Cherokee brethren, for no other reason alledged against him, than his having British arms about him, and in this, we are told he has been encouraged by colonel Hawkins, although long after peace was declared and all hostility ordered to cease. We further request lieutenant colonel Nicholls will return our grateful thanks to our good father, and his chiefs, by sea and land, for the useful and good presents he has sent to us by them; and also, that the lieutenant colonel, and the officers with him in this nation, will receive our thanks for their brotherly conduct to us; and whereas, our good father having made a peace with the United States of America, and according to his true talk, he has not forgotten the interests of us, his children, but has caused to be respected our lands, and guaranteed the integrity of them to us; we do declare them, or him, to be traitors to this nation, who shall, without his and our consent, sell, or make over to any foreign power, any part thereof; and we do further declare, that whosoever shall endeavor, directly, or indirectly, to separate us from him or his children, to be the enemy of us and our children; and that we will not trade or barter with any other than the British nation, if the above requests be complied with, and we do promise to give grants of land to all such British men as our good father shall give permission to stay amongst us, and that we will do our best to protect and defend them in their laws and property; and we send, as our representative, our brave brother Hidlis Hadgo, (Francis) to our father, who is authorized to ratify this treaty.

Given under our hands, at the British fort, at the confluence of the Chatutouchee and Flint rivers, this 10th March, 1815.

Hopoath Mico, *king of the four nations, x his mark.*

Hopy Mico, x T. P.

Nehemathla, 1st x.

Justomic Hago, x

Onus Hago, x

Nehemathla, 2d x  
 Nehemathla, 3d x  
 Justomic Emathla, x  
 Octaithge Hago, x  
 Acopehigemathlo, x  
 Tatao Mico, x

Hopopathla Justanuggee, x  
 his  
 mark.

Conope Mathla, x  
 Yatoule Mathla, x  
 Johnson. x  
 Hidlis Hadgo, x  
 And fourteen other chiefs.

Witness—Ed. Nicholls, lieutenant colonel.  
 H. Boss, captain, rifle corps.  
 Jos. Roche, captain 1st West India regiment.  
 Wm. Hambly, lieutenant, and 1st interpreter.

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No. 10.

*Extract of a letter from the Secretary of State, to Mr. Baker, dated July 10, 1815.*

The conduct of colonel Nicholls, who has taken a position on the Apalachicola, within the Spanish territory, is, on the same principle, entitled to particular attention; I transmit to you a copy of a correspondence between him and colonel Hawkins, agent of the United States with the Creeks, and also an extract of a letter from major general Gaines, with the affidavit of Samuel Jervis, which show the nature and effect of his extraordinary, and unjustifiable interference with that nation. It appears by colonel Nicholls's letter, that he considers our treaty with the Creeks, though made several months before the treaty with Great Britain, as rendered void by the latter, and that he is endeavoring to impress that opinion on them, and to excite them to hostility, in support of it; that he has supplied them with arms and ammunitions of war, and had actually formed a treaty of

alliance, offensive and defensive, with certain Indians, whom he calls the Creek nation, which he has sent to his government for ratification; that, in short, he had made Apalachicola a military station, at which he had collected a large body of Indians, and fugitive slaves from the United States, evidently for hostile purposes, against the United States. The conduct of this officer is of too marked a character to require any comment. His proceedings are utterly, and evidently incompatible with the late treaty with Great Britain, and with the amicable relations established by it, between our countries. In calling your attention to these proceedings, it is not my object to dwell on each particular act, of which I complain. I shall remark generally, that as the treaty with the Creeks was concluded before the treaty of peace with Great Britain, the 9th article of that treaty has no bearing with that nation, and that any interference of colonel Nicholls, or other British agent with the Creeks, however slight, is improper and unjustifiable.

The President cannot doubt that the conduct of colonel Nicholls, and of the other British agents, as stated in the correspondence, which is communicated, is unauthorized by your government, and that they will be justly censured and punished by it. In the mean time, as you were particularly empowered, to act in all circumstances, connected with the execution of the late treaty of peace, I am persuaded that you will readily interpose your authority, to put an end to proceedings of a nature so unwarrantable, and which have already produced such injurious effects."

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No. 11.

*Extract of a letter from the Secretary of State, to Mr. Adams, dated  
Department of State,  
July 21st, 1815.*

"The conduct of colonel Nicholls to the south is still more extraordinary. Having noticed it in sufficient detail in my letter to Mr. Baker, I refer you to that paper for the necessary information respecting it.

It may be fairly presumed, that these acts were not authorized by the British government; that they are imputable only to Indian agents, and those under whom they act in this country. They nevertheless deserve reprehension, which it is expected that the British government will not hesitate to inflict."

## No. 12. a.

*Extracts of a letter from Mr. Adams to the Secretary of State, stating the substance of a conversation with Earl Bathurst, dated*

*London, September 19th, 1815.*

“I said that the American government had been peculiarly concerned at the proceedings of colonel Nicholls, because they appeared to be marked with unequivocal and extraordinary marks of hostility.” “Why, said lord Bathurst, to tell you the truth, colonel Nicholls is, I believe, a man of activity and spirit, but a very wild fellow. He did make and send over to me a treaty, offensive and defensive, with some Indians; and he is now come over here, and has brought over some of those Indians. I sent for answer, that he had no authority whatever to make a treaty offensive and defensive with Indians, and that this government would make no such treaty. I have sent him word, that I could not see him upon any such project. The Indians are here, in great distress indeed; but we shall only furnish them with the means of returning home, and advise them to make their terms with the United States, as well as they can.” “Perceiving that I had particularly noticed his declaration, that he had declined seeing colonel Nicholls, he said that he should, perhaps, see him upon the general subject of his transactions, but that he had declined seeing him in regard to his treaty with the Indians.”

“In this conversation, lord Bathurst’s manner, like that of lord Liverpool in the conference which I had about a month before with him, was altogether good humored and conciliatory. The conduct of all the officers and persons complained of, was explicitly disavowed; and I understood, at first, the observation of lord Bathurst that he had declined seeing colonel Nicholls, as an intimation that it was intended to exhibit towards that officer, unequivocal marks of displeasure. But the subsequent explanation left me to conclude, that, although the disapprobation of his proceedings was strongly expressed to me, the utmost extent of it that would be shown to him, would be the refusal to ratify his treaty, offensive and defensive, with the Indians.”

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No. 12. b.

*Extract of a note from Mr. Adams to Earl Bathurst, dated London, 25th September, 1815.*

“In the conference with your lordship with which I was honored on the 14th instant, I represented to you, conformably to the in-

structions which I had received from the government of the United States, the proceedings of several British officers in America, and upon the American coast, marked with characters, incompatible, not only with those amicable relations which it is the earnest desire of the American government to restore and to cultivate, but even with the condition of peace, which had been restored between the two countries by the treaty of Ghent.

It was with the highest satisfaction that I understood your lordship, in the name of the British government, to disavow the proceedings of all those officers, of which it had been my duty to complain; and that I received from you the assurance, that orders had long since been given for the restoration of the post of Michilimakinac to the United States; that instructions had been given to promote by all suitable means, the restoration of peace between the Indians and the United States; and particularly, that colonel Nicholls, in pretending to conclude a treaty offensive and defensive with certain Indians, belonging within the jurisdiction of the United States, had not only acted without authority, but incurred the disapprobation of his majesty's government."

No. 13. g.

*Extract of a letter from Mr. Adams, to the Secretary of State, containing the substance of a conversation with lord Castlereagh, dated London, 8th February 1816.*

"I next observed, that, at the other extremity of the United States, the Indians again appeared in the shape of disturbers of the peace between our countries. I recapitulated your remonstrances to Mr. Baker, and mine, by your order, to lord Bathurst, against the conduct of col. Nicholls; that officer's pretended treaties of alliance, offensive and defensive, and of commerce, and navigation, with certain runaway Indians, whom he had seen fit to style the Creek nation; and the very exceptionable manner in which he had notified his transactions to the agent of the United States with the Creeks, with an intimation that we were to hear more about these treaties, when they should be ratified in England. I mentioned that lord Bathurst

had in the most candid, and explicit manner, *verbally* disavowed to me these proceeding of colonel Nicholls; had told me that the pretended treaty of alliance, offensive, and defensive, had been indeed transmitted by the colonel for ratification; but this government had refused to ratify it, and informed colonel Nichols, that they would agree to no such treaty; that the colonel had even brought over some of his Indians here, who would be sent back, with advice to make their terms with the United States as they could. These *verbal* assurances, I had reported to my government, and presumed they had been received with much satisfaciou. Whether they had been repeated in a more formal manner, and in any written communication, I had not been informed. I had noticed the conduct of colonel Nicholls, in one of my notes to lord Bathurst, and to that part of the note, had received no answer. As the complaint had also been made through Mr. Baker, a written answer might, perhaps, have been returned through that channel. My motive for referring to the subject now, was, that by the President's message, to congress, at the opening of the session, I perceived that the conduct of the Indians in that part of the United States still threatened hostilities, and because there, as in the more northern parts, the Indians would certainly be disposed to tranquillity and peace with the United States, unless they should have encouragement to rely upon the support of Great Britain. Lord Castlereagh, said with a smile, that he had a good many treaties to lay before parliament, but none such as those I described, were among them."

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No. 13. b.

*Extracts of a note from Mr. Adams to Lord Castlereagh, dated*

*London, 21st March, 1816.*

"It has been more than once a painful part of the duty of the undersigned to represent to his majesty's government, the unfriendly dispositions, manifested by British military officers in America, towards the United States, since the peace between the two countries; and to point out specific and unequivocal facts, by which those officers, far from exerting themselves to carry into effect the avowed object of their own government, of securing to the Indians who had followed the British standard during the war, the blessings of the pacification, have labored with an activity as restless, and a zeal as ar-

dent as they could have done in the heat of war, to instigate Indians, belonging within the territorial jurisdiction of the United States, to continued or renewed hostility against them. When in the course of last summer, the undersigned had the honor of exposing to earl Bathurst the transactions deeply marked with this character of colonel Nicholls, he was happy to receive from his lordship, verbally, at once the confirmation of the facts, and the disavowal of the measures. Col. Nicholls after the conclusion of the peace between his sovereign and the United States, not only used every effort in his power to urge to war against the United States, tribes of Indians with whom they were then at peace, and who were far remote from any British possession whatever, but actually concluded a pretended treaty of alliance offensive and defensive between some of them and Great Britain, against the United States. Of this treaty, earl Bathurst, in a conference with the undersigned, expressed himself in terms of unqualified disapprobation; adding that it had not been ratified or approved, and that no such treaty would be made or agreed to by Great Britain. In the pursuit of his projects, colonel Nicholls brought over some of these Indians to England; but as lord Bathurst, in the most explicit manner, assured the undersigned that no use of them, hostile to the United States, would be made by Great Britain, the undersigned is persuaded that determination has not been departed from by his majesty's government."

"How far the threat of Indian vengeance is becoming to the humanity of British officers, or the dignity of their government, in a correspondence with the officers of a civilized nation, and in a time of peace, the undersigned leaves to his majesty's government to decide. Neither colonel Nicholls, nor colonel James, was ashamed to use it, and it would be treated by the undersigned, as it was by the officers of the United States to whom it was addressed, were it not his duty to remark, that in condescending to be the heralds of this menace, those officers sufficiently indicated that they understood its being carried into execution or not, depended upon them; that they viewed themselves as the regulators, to restrain or to license Indian barbarity, at their discretion; that they, British military officers, called upon the civil authority of the United States, to satisfy the revenge of Indian savages, belonging within the American jurisdiction, for acts committed upon the American territory; threatening as the alternative, to let loose those savages to wreak their own vengeance, in all its fury, upon American women and children."

"Independently of the very serious character of these transactions in themselves, the undersigned entreats the attention of the British government, to the spirit by which they were dictated. This excessive earnestness of British authorities, military and civil, to hold themselves forth as the protectors, through right and through wrong of Indians, not belonging to British territories, however politic it may be deemed to embitter enmities, and to provoke hostilities between the Indians and the Americans, cannot but excite animosities far more

formidable between the British and American nations. If persevered in, it must eventually prove most pernicious and fatal to the Indians themselves. The occasion will justify the expression of the hope that orders and instructions will be issued to the local authorities of the British colonies in North America, which will leave no doubt on the minds of those invested with them, that the real extension of Great Britain towards the United States, is peace."

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No. 14.

*General Jackson to the Governor of Pensacola.*

*Head Quarters, Division of the South,  
Washington, M. T. 23d April, 1816.*

SIR,

I am charged by my government to make known to you, that a negro fort, erected during our late war with Great Britain, at or near the junction of the Chatahouchee and Flint rivers, has been strengthened since that period, and is now occupied by upwards of two hundred and fifty negroes, many of whom have been enticed away from the service of their masters, citizens of the United States; all of whom are well clothed and disciplined. Secret practices to inveigle negroes from the citizens of Georgia, as well as from the Cherokee and Creek nations of Indians, are still continued by this banditti and the hostile Creeks.

This is a state of things which cannot fail to produce much injury to the neighboring settlements, and excite irritations which eventually may endanger the peace of the nation, and interrupt that good understanding which so happily exists between our governments.

The principles of good faith, which always insure good neighborhood between nations, require the immediate and prompt interference of the Spanish authority, to destroy or remove from our frontier this banditti, put an end to an evil of so serious a nature, and return to our citizens and friendly Indians inhabiting our territory, those negroes now in the said fort, and which have been stolen and enticed from them. I cannot permit myself to indulge a belief, that the governor of Pensacola, or the military commander of that place, will hesitate a moment in giving orders for this banditti to be dis-



persed, and the property of the citizens of the United States forthwith restored to them, and our friendly Indians particularly, when I reflect that the conduct of this banditti is such as will not be tolerated by our government, and if not put down by Spanish authority, will compel us, in self defence, to destroy them. This communication is entrusted to captain Amelung, of the first regiment of United States infantry, who is charged to bring back such answer as you may be pleased to make to this letter. In your answer you will be pleased to state, whether that fort has been built by the government of Spain, and whether those negroes who garrison it are considered as the subjects of his catholic majesty, and if not by his catholic majesty, by whom and under whose orders it has been erected.

(Signed)

ANDREW JACKSON,

*Maj. Gen. commanding Division of the South,*

*To the Governor of Pensacola, or*

*Military Commander of that place.*

A true copy—ISAAC L. BAKER, *Aid-de-camp.*

(Translated copy.)

No. 15.

*Governor Zuniga to General Jackson:*

*Most Excellent Sir,*

On the 24th of the present month, captain Amelung, of the first United States' regiment, put into my hands your excellency's letter, dated at Washington, Mississippi territory, on the 23d of April last, in which, after apprizing me, that your government had given it in charge to you to inform me, that the fort of the negroes, erected during the last war, (with Great Britain,) near the junction of the Chatahouche and Flint rivers, had been reinforced, and was now occupied by more than two hundred and fifty negroes, many of whom were seduced from the service of their masters, (who are

citizens of the United States,) and that all of them are well armed, provisioned, and disciplined; you make many wise reflections, with respect to the serious injuries, which may result from tolerating such an establishment, not only to those in the immediate neighbourhood of it, by disturbing the peace of the nation, but likewise to the good understanding which happily exists, between our respective governments: you enter into an investigation, to show what the Spanish authorities ought to do, to put an end to an evil of so serious a nature, in the mode prescribed by the principles of good faith, which are the foundation of friendly neighborhood among nations: you distinctly state, what the government ought immediately to do, in failure of which, your government will be obliged to do it, to ensure the safety of the inhabitants of the United States: and you conclude by requesting me to state, in my answer to your letter, whether the said fort has been constructed by the Spanish government, and whether the negroes, who compose its garrison, are deemed subjects of his catholic majesty; and if the fort was not built by Spanish authority, to state by what authority, and by whose order, it was built.

In answer to your excellency, I will state, (with the veracity which comports with the character of an honorable officer, in which class I rank myself,) that having arrived at this place, nearly at the close of the month of March, preceding, and being informed of what your excellency has communicated to me, (with this difference, that the fort, instead of being where you place it, is to be found on the eastern bank of the Apalachicola, at about fifteen miles from its mouth or entrance into the sea.) I lost no time in proposing to my captain general, the measures which appeared to me proper, as well for securing the inhabitants of the country under my command, from the damages, losses, and injuries which they have suffered, and still suffer from this establishment, as to prevent the American citizens, and the friendly Indians of the neighborhood from continuing to experience them. I have hitherto received no answer, and consequently your excellency, (who knows how limited are the powers of a subordinate officer,) cannot be surprised, that I should make known to you, that although my mode of thinking exactly corresponds with yours, as to dislodging the negroes from the fort, the occupying it with Spanish troops, or destroying it, and delivering the negroes who may be collected to their lawful owners, I shall not be able to act until I receive the orders of my captain general, and the assistance necessary to enable me to undertake the enterprize with a moral certainty of accomplishing the end. I am persuaded that the determination of the said chief cannot be long delayed; and, should it authorize me to act, your excellency may rest assured and persuaded, that I will not lose an instant in adopting, on my part, the most efficacious measures for cutting up by the root an evil, which is felt to the full extent stated in your letter, by the inhabitants of this province, who are the subjects of my sovereign, and whose prosperity and tranquillity it is my duty to preserve and protect.

With this explanation, your before named letter may be considered as fully answered, as it gives me pleasure to understand, that thinking as your excellency thinks, with respect to the necessity of destroying the negroes, the fort at Apalachicola, occupied by them, was not constructed by orders of the Spanish government; and that the negroes, although in part belonging to inhabitants of this province, and, as rational beings, may be the subjects of the king my master, are deemed by me insurgents, or rebels against the authority, not only of his catholic majesty, but also of the proprietors from whose service they have withdrawn themselves; some seduced by the English colonel Nicholls, major Woodbine, and their agents, and others from their inclination to run off. But as your excellency manifests a particular desire, that, in case the fort was not erected by Spanish authority, I should state by what authority, and by whose orders, it was erected; I have no difficulty in satisfying your curiosity, by informing you, that I have understood, ever since my arrival at this place, that the said fort, and another near the confluence of the Chatahouche and Flint rivers, (which it appears no longer exists) were built by the order of the before named colonel Nicholls. I will not assure you that he did it under authority from his government; but I can say, that he proceeded to place artillery, munitions and provisions in it, by the arrangement of vice admiral Malcolm; and, that when colonel Nicholls and the troops of his detachment, after the conclusion of the expedition against Louisiana withdrew from that point, he left orders with the negroes, totally contrary to the incontestable right of sovereignty, which the king my master exercises, from the line of the 31° of north latitude to the south. My predecessors in this government, have given an account of all these actions to the authorities on whom they depended, that the satisfaction which the violation required might be demanded, by those on whom this duty devolves.

I think I have answered your excellency's letter satisfactorily, and in terms which cannot leave a doubt of the sincerity of my intentions in favor of the common cause of the American and Spanish inhabitants; and that my present inaction does not proceed from a want of inclination. I likewise flatter myself, that, until my captain general decides, no steps will be taken by the government of the United States, or by your excellency, which may be prejudicial to the sovereignty of the king my master, or the district of Apalachicola, which is a dependency of this government. And finally, I conclude by assuring your excellency, that it will afford me particular satisfaction to have opportunities of evincing my desire, not only to contribute, so far as depends on me, to the cementing of the good understanding which subsists between our respective governments, but also to prove to your excellency, the high opinion I entertain of your virtues and military talents. God preserve your excellency many years. *Pensacola, 26th May, 1818.*

(Signed)

MAURICIO DE ZUNIGA.

*His excellency Andrew Jackson.*

No. 16.

*Report of Captain Amelung to General Jackson.**New Orleans, June 4th, 1816.*

SIR,

In obedience to your order, received on the 6th of May last, I proceeded the next day for Pensacola; but owing to adverse winds, (having to wait 12 days at the Bay St. Louis) I only arrived at that place on the 24th May. I was received and treated with great attention, by the governor and his officers, and after receiving his answer to your letter, I left there on the 27th, and arrived here on the 2d instant.

I have the honor to transmit herewith the answer of the governor, which I think embraces all the points, touched upon in your letter; and also take the liberty to subjoin a translation thereof; as it might happen, that no person is near you, understanding the Spanish language. I am firmly of opinion, that the governor asserts the truth in his communication; and am convinced, that the inhabitants of Pensacola have suffered, and do now suffer, more than our citizens, from the existence of the fort, and its garrison.

I also take the liberty of communicating such intelligence, as I have been able to collect from good authority, and which might perhaps be of some use.

The fort in question is situated at Bonavista, on the eastern branch of the Apalachicola river, 15 miles above its mouth, and 120 miles east of Pensacola. The river discharges itself into St. George's Sound; and vessels, drawing not more than 10 feet water, may come in between St. George's and St. Vincent's islands: the bar, however, is dangerous, and requires skilful pilots.

The fort was constructed by Nicholls and Woodbine; and the British occasionally resorted thither; but on their final evacuation of this country, left it in the possession of a garrison, composed of negroes and Indians, with four pieces of heavy ordnance, and 10,000 pounds of powder, &c. About twenty Choctaws, a number of Seminoles, and a great number of runaway negroes, are supposed to have been there some time ago; but a great part of these brigands have abandoned the fort, on account of scarcity of provisions, and have gone to Savannah (alias St. Joseph's) river, in East Florida; whither they will, no doubt, all retire, in case of an attack by land, as they have a schooner, and several large boats, to make good their retreat by sea if not interrupted.

From this spot they can easily annoy our settlements on Flin river, and the whole Georgia frontier, and are in a country where they can procure subsistence with facility.

Pensacola itself, is, I can assure you, entirely defenceless. Th

garrison consists of from 80 to 100 effective men, exclusive of a battalion of colored troops, say about 150 men, of whom the inhabitants themselves stand in constant dread. They have about 150 serviceable muskets, about 500 musket cartridges, and not enough gunpowder to fire a salute: one gun was mounting at Barrancas, on the day I left there. To this is to be added, the dissatisfaction of the inhabitants, and even of a number of the officers of government, and the desire of a majority, to see a change effected. I must not forget to present to you, on the part of the governor, the thanks of the inhabitants of Pensacola, for the exemplary and humane conduct of the army under your command at Pensacola; and I verily believe their professions to be sincere.

The governor also, on my mentioning in conversation, that I was persuaded you would willingly assist in destroying the fort, said, if the object was of sufficient importance to require the presence of gen. Jackson, he would be proud to be commanded by you; and that if the captain general of Cuba could not furnish him with the necessary means, he might perhaps apply to you for assistance.

Having nothing further to add, I remain very respectfully,

Your obedient servant,

[Signed] VERO Z. AMELUNG.

*Captain 1st Infantry.*

A true copy,

*James T. Dent,*

*Judge Advo. Div. of the South.*

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No. 17.

*General Jackson to the Secretary of War.*

*Head Quarters, D. of the South,*

*Nashville, June 15th, 1816.*

SIR,

I have this moment received the answer of the commanding officer and governor of Pensacola, to mine of the 23d of April, which I hasten to forward for your information, as well as the copy of the

report of captain Amelung, of the 1st infantry, who was the bearer of my letter. I send you the original, retaining a copy in English, forwarded to me by captain Amelung.

The answer bears the marks of candor, and breathes the spirit of friendship; and as those marauders, on our frontier are acknowledged officially, as rebels against the government of Spain, there can be no fear of disturbing the good understanding, that exists between us and Spain, by destroying the negro fort, restoring to the owners, the negroes that may be captured.

The 4th and 7th infantry, will be sufficient to destroy it, a few troops from the 1st infantry, with a small naval force, will prevent their escape and capture those vessels, named by captain Amelung in his report. I shall await your order, on this subject, which shall be promptly obeyed and executed.

I am respectfully,

Your most obedient servant,

ANDREW JACKSON,

*Maj. Gen. Com'dg, D. of the S.*

*The Hon. Wm. H. Crawford,*  
*Secretary of War.*

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No, 18. a.

*Gen. Gaines to the Secretary of War.*

*Camp near fort Jackson,*

*April 30th, 1816.*

SIR,

I have just now received a letter from lieut. colonel Clinch, dated near the mouth of Summochichoba, the 26th instant, enclosing a communication from the little prince, a copy of which I enclose herewith.

This chief is on a tour down the river to visit the Seminole chiefs near the Apalachicola.

The ostensible object of the visit was to adopt measures to take the Negro fort; and as colonel Hawkins had confidence in the prom-

ises of the Indians to effect this object, I sanctioned a requisition for supplying them with three hundred bushels of corn, to serve as rations. That I have little faith in their promises, I will not deny; but it seemed to me proper to encourage them in the prosecution of a measure which I felt persuaded would, if successful, be attended with great benefit to our southern frontier inhabitants, as well as the Indians themselves.

I have the honor to be,

Very respectfully,

Your most obedient servant,

[Signed]

EDMUND P. GAINES.

*The Hon. William H. Crawford,*

*Secretary of War.*

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No. 18. b.

*Talk from the Little Prince, Tustunnuggee Hopoy, to the commander of the United States' forces in the Indian nation.*

SIR,

Jackson and Hawkins spoke to us, and told we were their children. At the Tuskegee meeting, you told us you would have the land as far down as the Summochichoba; but we chiefs did not agree to it, you did not tell us then you would build forts along the river bank down to the fork, but we heard since you issued orders to that effect. We do not think it friendly for one friend to take any thing from another forcibly. The commander and Hawkins did not tell us any thing about building of these forts. Did you know these things, and keep them hid from me? We told our friend Hawkins we would hold a meeting at this place on our way down. We were at the fort at Summochichoba, built by the commanding officer—that he had orders to build three forts. Our friend Hawkins told us to go down to the fort of the blacks, and take them out of it, and give them to their masters, which we are at, at this present, when we have heard of Jackson's orders about building these forts—we hear of your meeting at Tuskegee. We hope you will detain the forces at the places they are at, at present, and wait on the Indians, as I am sure they

will be able to settle every thing; but all the chiefs are not yet met, you know that we are slow in our movements. I spoke to the commanding officer at Summochichoba. He will read this, and write it off on a clean sheet, and send it on to the commander in chief and colonel Hawkins. I beg you will send me back an answer, and a sheet of paper, and a little ink, in order to enable me to write you again, if it should be necessary.

I remain your friend,

(Signed)

TUSKANUGGEE HOPOY.

A true copy—Rob. R. Ruffin,  
*Lieutenant artillery, aid-de-camp.*

Wrote as spoken by Wm. Hambly, 26th April, 1816.  
(Signed) W. S. Pendleton.



No. 19.

*General Gaines to Col. Clinch.*

*Head Quarters, Fort Montgomery, M. T.*  
*23d May, 1816.*

SIR,

Your letters up to the 9th instant, have been received. The British agent Hambly, and the little prince, and others, are acting a part, which I have been at a loss for sometime past to understand. Are they not endeavouring to amuse and divert us from our main object? Their tricks, if they be so, have assumed a serious aspect, and may lead to *their* destruction; but *we* have little to apprehend from them. They must be watched with an eye of vigilance. The post near the junction of the rivers, to which I called your attention, in the last month, must be established speedily, even if we have to fight our way to it through the ranks of the whole nation.

The surveyors have commenced laying off the land to be sold and settled; and they must be protected. The force of the whole nation cannot arrest your movement down the river on board the boats,



if secured up the sides with two inch plank, and covered over with clapboards; nor could all the nation prevent your landing and constructing a stockade work, sufficient to secure you, unless they should previously know the spot at which you intended to land, and had actually assembled at that place previous to, or within four hours of your landing; but your force is not sufficient to warrant your march to the different villages, as suggested, by land. The whole of your force, (except about forty men, or one company, for the defence of fort Gaines,) should be kept near your boats and supplies, until the new post shall be established. You may then strike at any hostile party near you, with all your disposable force; but, even then, you should not go more than one or two days march from your fort.

If your supplies of provision and ammunition have reached you, let your detachment move as directed in my letter of the 28th of last month. You can venture to move with twenty five days rations, but you should order a supply to the agency, or fort Gaines, where a boat should be built, and held in readiness to send down, in case any accident should prevent, or delay the arrival of a supply which I have ordered from New Orleans.

I enclose you an extract of a letter containing an arrangement for the supply, by water, and have to direct that you \* will provide a boat, and despatch it with an officer and fifty men to meet the vessels from New Orleans, as soon as you are advised of their being on the river. One of your large boats will answer the purpose, provided you have no barge or keel boat. Should the boats meet with opposition, at what is called the Negro Fort, arrangements will immediately be made for its destruction, and for that purpose you will be supplied with two eighteen pounders and one howitzer, with fixt ammunition, and implements complete to be sent in a vessel to accompany the provision. I have likewise ordered fifty thousand musket cartridges, some rifles, swords, &c. Should you be compelled to go against the Negro Fort, you will land at a convenient point above it, and force a communication with the commanding officer of the vessels below, and arrange with him your plan of attack. Upon this subject, you shall hear from me again, as soon as I am notified of the time at which the vessels will sail from New Orleans.

With great respect and esteem,

Your obedient servant,

(Signed)

EDMUND P. GAINES.

*Major gen. comm'g.*

*Lieut. col. D. L. Clinch,*

*or officer commanding on the Chattahooche.*

A true copy.—ROB. R RUFFIN, *Aid-de-camp.*

\* Note.—Thirty thousand rations have been ordered from New Orleans up the Apalachicola, and commodore Patterson requested to send a convoy of one or two gun vessels.

No. 20.

*General Gaines to Commodore Patterson.**Fort Montgomery, May 22d 1816.*

SIR,

By a letter I have received from lieutenant colonel Clinch, commanding a battalion of the 4th regiment infantry, on the Chatahoochie, I learn that in the early part of the present month, a party of Indians surprized and took from the immediate vicinity of his camp, two privates sent out to guard a drove of beef cattle, purchased for the subsistence of the troops. The cattle, amounting to thirty head, were also taken; the Indians were pursued forty five miles, on a path leading to St. Marks, but being mounted and having travelled all night, escaped with their prisoners and booty.

This outrage, preceded by the murder of two of our citizens, Johnson and M<sup>c</sup>Gaskey, by Indians below the lines, and followed by certain indications of general hostility, such as the *war dance*, and drinking *war physic*, leaves no doubt that we shall be compelled to destroy the hostile towns.

The detached situation of the post, which I have ordered lieutenant colonel Clinch to establish near the Apalachicola, will expose us to great inconvenience and hazard, in obtaining supplies by land, particularly in the event of war, as the road will be bad, and the distance from the settlement of Georgia near one hundred and fifty miles.

Having advising with the commander in chief of the division upon this subject, I have determined upon an experiment by water, and for this purpose have to request your co-operation; should you feel authorized to detach a small gun vessel or two, as a convoy to the boats charged with our supplies up the Apalachicola, I am persuaded that in doing so, you will contribute much to the benefit of the service, and accommodation of my immediate command in this quarter: the transports will be under the direction of the officer of the gun vessel, and the whole should be provided against an attack by small arms from shore. To guard against accidents, I will direct lieutenant colonel Clinch, to have in readiness, a boat sufficient to carry fifty men, to meet the vessels on the river and assist them up.

Should you find it to be convenient to send a convoy, I will thank you to inform me of the date of its departure, and the time which in your judgment, it will take to arrive at the mouth of the river (Apalachicola.)

Enclosed you will receive the best account I can give you, from the information I have received of the Negro Fort upon the Apala-

chicola. Should we meet with opposition from that fort, it shall be destroyed; and for this purpose the commanding officer above, will be ordered to prepare all his disposable force, to meet the boats at, or just below the fort, and he will confer with the commanding officer of the gun vessels, upon the plan of attack.

I am, with great consideration and esteem,

Your obedient servant,

[Signed] EDMUND P. GAINES,

*Maj. Gen. by brevet.*

*Com. Daniel T. Patterson, U. S. Navy,  
Commanding New Orleans station.*

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No. 21.

*Com. Patterson to lieut. comt. Crawley.*

*New Orleans, 19th June, 1816.*

SIR,

The enclosed copy of a letter from major general Gaines, commanding the United States military forces, in the Creek nation, fully informs you of his situation and his expectation of immediate commencement of hostilities on the part of those Indians.

In consequence of the information contained in that letter, I have promised the convoy therein requested; you will therefore take under your command, gun boat No. 149, and with that letter for guide, convoy the transports, with ordnance, provisions, &c, up the Apalachicola and Chattahoochie, to such point or points as may be required, if practicable; should you meet with opposition from the Negro fort, situated as stated in the letter on the former river, the military commanding officer will have orders to destroy it, in which you will co operate; the plan of attack to be concerted between yourself and him; the transports will be under your direction entirely.

In the event of hostilities between the Indians and the United States, you will if practicable afford any aid with your vessels in your power to the army. Remain in that river and co-operate with them until it shall be necessary to return here for provisions; but if you cannot aid them in their operations, you will then return immediately, bringing with you the transports.

The transports, will rendezvous at the Pass Christian, and consist of the following vessels.

Schooner Semilante, laden with ordnance.

General Pike, provisions.

By late information the Negro fort mounts only six pieces of cannon, with about one hundred men in and about it, planting corn, and I apprehend no opposition from them whatever; in the event of your remaining to act with the army, your will communicate with me by mail, through general Gaines. Should the boat mentioned in general Gaines' letter not meet you prior to your arrival, at or near the Negro fort, and you have cause to expect opposition, you will wait her arrival before you attempt to pass it.

Very respectfully

Your obedient servant,

[Signed] DANIEL T. PATTERSON.

Lieut. Comt. Cha. E. Crawley,  
U. S. Cutter Fox.

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No. 22.

Commodore Patterson to J. Loomis.

New Orleans, June 19th, 1816.

SIR,

The enclosed despatch for lieutenant commandant Crawley is transmitted under cover to you, lest he might not arrive at the Pass Christian, by the time the transports laden with ordnance, provision, &c., mentioned to you verbally when here, shall arrive and be ready to proceed to their place of destination, in which case you will consider them as addressed to you and act accordingly; in that event you will take under your command gun boat No. 154, together with the transports, and proceed in execution of these instructions.

In the performance of the duties therein pointed out, it will be necessary to act with vigor and judgment; and you will refrain from any act of hostilities against the Spanish force, or violation of their rights and laws. You will make no delay in your departure from the Pass Christian, after the arrival there of No. 154 and the transports.

Very respectfully,

Your obedient servant,

(Signed)

DANIEL T. PATTERSON.

*Sailing master Jairus Loomis,*

*Commanding U. S. gunboat, No. 149.*

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No. 23.

*J. Loomis to Commodore Patterson.*

*Bay St. Louis, 13th August, 1816.  
United States' Gun Vessel, No. 149.*

SIR,

In conformity with your orders of the 24th June, I have the honor to report, that with this vessel and No. 154, sailing master James Bassett, I took under convoy the schooners General Pike and Semelante, laden with provisions and military stores, and proceeded for Appalachicola river; off the mouth of which we arrived on the 10th July. At this place I received despatches from lieutenant colonel Clinch, commanding the 4th regiment United States infantry, on the Chatahoochie river, borne by an Indian, requesting me to remain off the mouth of the river, until he could arrive with a party of men to assist in getting up the transports; desiring me also, to detain all vessels and boats that might attempt to descend the river.

On the 15th, I discovered a boat pulling out of the river, and being anxious to ascertain whether we should be permitted peaceably to pass the fort above us, I despatched a boat with an officer to gain the necessary information; on nearing her, she fired a volley of musketry into my boat, and immediately pulled in for the river; I imme-

diately opened a fire on them from the gun vessels, but with no effect.

On the 17th, at 5 A. M. I manned and armed a boat with a swivel and musketry and four men, and gave her in charge of midshipman Luffborough, for the purpose of procuring fresh water, having run short of that article. At 11 A. M. sailing master Bassett, who had been on a similar expedition, came along side with the body of John Burgess, O. S. who had been sent in the boat with midshipman Luffborough; his body was found near the mouth of the river, shot through the heart. At 4 P. M. discovered a man at the mouth of the river on a sand bar, sent a boat and brought him on board; he proved to be John Lopaz, O. S. the only survivor of the boat's crew sent with midshipman Luffborough. He reports, that on entering the river, they discovered a negro on the beach near a plantation; that Mr. Luffborough ordered the boat to be pulled directly for him; that on touching the shore he spoke to the negro, and directly received a volley of musketry from two divisions of negroes and Indians, who lay concealed in the bushes on the margin of the river; Mr. Luffborough, Robert Maitland, and John Burgess, were killed on the spot; Lopaz made his escape by swimming, and states that he saw the other seaman, Edward Daniels, made prisoner. Lopaz supposed there must have been forty negroes and Indians concerned in the capture of the boat.

On the 20th July, I received by a canoe with five Indians. despatches from colonel Clinch, advising that he had arrived with a party of troops and Indians at a position about a mile above the negro fort, requesting that I would ascend the river and join him with the gun vessels. He further informed me, that he had taken a negro bearing the scalp of one of my unfortunate crew, to one of the unfriendly Indian chiefs. On the 22d, there was a heavy cannonading in the direction of the fort. On the 23d, I received a verbal message from colonel Clinch, by a white man and two Indians, who stated that colonel Clinch wished me to ascend the river to a certain bluff, and await there until I saw him. Considering that by so doing, in a narrow and crooked river, from both sides of which my decks could be commanded, and exposed to the fire of musketry, without enabling me to act in my own defence; and also, that something like treachery might be on foot, from the nature of the message; I declined acting, retained the white man and one of the Indians as hostages, and despatched the other, with my reason for so doing, to colonel Clinch, that his views and communications to me in *future* must be made in writing, and by an officer of the army.

Lieut. Wilson and thirteen men joined me on the 24th to assist in getting up with the transports, he likewise informed me that colonel Clinch had sent the canoe the day before.

On the 25th I arrived with the convoy at duelling bluff, about four miles below the fort, where I was met by colonel Clinch; he informed me that in attempting to pass within gunshot of the fortifications, he

had been fired upon by the negroes, and that he had also been fired upon for the last four or five days, whenever any of his troops appeared in view; we immediately reconnoitred the fort, and determined on a scite to erect a small battery of two eighteen pounders to assist the gun vessels to force the navigation of the river, as it was evident from their hostility we should be obliged to do.

On the 26th the colonel began to clear away the bushwood for the erection of the battery; he however stated to me that he was not acquainted with artillery, but that he thought the distance was too great to do execution. On this subject we unfortunately differed totally in opinion, as we were within point blank range; he however ordered his men to desist from further operations; I then told him that the gun vessels would attempt the passage of the fort in the morning, *without his aid*. At 4, A. M. on the morning of the 27th, we began warping the gun vessels to a proper position; at 5, getting within gun shot, the fort opened upon us, which we returned, and after ascertaining our real distance with cold shot, we commenced with hot, (having cleared away our coppers for that purpose,) the *first* one of which entering their magazine, blew up and completely destroyed the fort. The negroes fought under the English Jack, accompanied with the red or bloody flag.

This was a regularly constructed fortification, built under the immediate eye and direction of colonel Nicholls of the British army; there were mounted on the walls, and in a complete state of equipment for service, four long 24 pounders, cannon; four long 6 ditto; one four pounder field piece, and a 5½ inch brass howitz, with three hundred negroes, men, women, and children, and about 20 Indian warriors of the renegado Choctaws; of these 270 were killed, and the greater part of the rest mortally wounded, but three escaped unhurt; among the prisoners were the two chiefs of the negroes and Indians. On examining the prisoners they stated that Edward Daniels, O. S. who was made prisoner in the boat on the 17th July, was tarred and burnt alive. In consequence of this savage act, both the chiefs were executed on the spot by the friendly Indians.

From the best information we could ascertain there were,  
2,500 stand of musketry, with accoutrements complete.

500 carbins.

500 steel scabbard swords.

4 cases containing 200 pair pistols.

300 qr. casks rifle powder.

762 barrels of cannon powder, besides a large quantity of military stores and clothing, that I was not able to collect any account of, owing to an engagement made by colouel Clinch with the Indians, in which he promised them *all the property* captured, except the cannon and shot.

The property captured on the 27th July, according to the best information we could obtain, and at the lowest calculation, could not have been less than \$ 200,000 in value, the remnant of the property,

that the Indians did not take, was transported to fort Crawford, and to this place, an inventory of which I have the honor to transmit for your further information.

On sounding the river, I found it impassable for vessels drawing more than four and a half feet water, consequently, colonel Clinch took the provision from the General Pike into flats, and lightened the Semelante, so as to enable her to ascend the river as high as fort Crawford. On the 3d August, after setting fire to the remaining parts of the fort and village, I left the river and arrived at this anchorage on the 12th current.

I cannot close this letter without expressing to you, my entire approbation of the conduct of sailing master James Bassett, commanding gun vessel No. 154, for his cool, deliberate, and masterly conduct, and the support I received from him in all cases of difficulty and danger. In fact, Sir, every man and officer did his duty.

Very respectfully,

Your obedient servant,

[Signed]

J. LOOMIS.

*Commodore Daniel T. Patterson,  
Commanding U. S. Naval Forces,  
New Orleans station.*

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No. 24.

*Commodore Patterson to the Secretary of the Navy.*

*New Orleans, August 15th, 1816.*

SIR,

It is with great satisfaction I do myself the honor to transmit herewith, a copy of the report of operations of two gun vessels, under the command of sailing master Jairus Loomis, despatched at the request of major general Gaines, commanding the U. S. army in the Creek nation, to convoy two transports, laden with ordnance, stores, and provision, up the rivers Apalachicola and Chatahoocchie, to fort



Crawford, for the use of the army; as also, copies of the major general's letter to me, and of my instructions to Mr. Loomis.

You will perceive by Mr. Loomis's statement, that the unprovoked and wanton aggression committed by a party of negroes on his boats, as also their hostile disposition and conduct to the army and the gun vessels, and their approaching the fort, evinced in the strongest manner their intention to dispute his passage past their fort, rendered it necessary to silence their fire and capture the fort. The very able manner and short time in which this was so effectually accomplished, with a force so very inferior, reflects the greatest credit upon Mr. Loomis, and the officers and men under his command; the 9th shot and *first hot* one, producing the explosion, and unless the fort had surrendered or been destroyed, it would have been impossible for the army to have received those supplies, of which they stood in so much need, and without which their operations against the hostile indians, must necessarily have been materially retarded, if not totally suspended, and it was from the very great importance, as detailed by general Gaines, that those stores and provisions should reach the army in safety, that I felt it a duty incumbent upon me, when thus called upon, to afford the requisite convoy for their protection.

The service rendered by the destruction of this fort and the band of negroes who held it and the country in its vicinity, is of great and manifest importance to the United States, and particularly those states bordering on the Creek nation, as it had become the general rendezvous for runaway slaves and disaffected Indians. an asylum where they were assured of being received; a strong hold where they found arms and ammuniton to protect themselves against their owners and the government; this hold being destroyed, they have no longer a place to fly to, and will not be so liable to abscond. The able manner in which this enterprize was conducted, cannot but impress the hostile Indians also with a dread of our arms, and increase the confidence of those who are friendly; add to which, that the force of the negroes was daily increasing, and they felt themselves so strong and secure, that they had commenced several plantations on the fertile banks of the Apalachicola, which would have yielded them every article of sustenance, and which would consequently, in a short time, have rendered their establishment quite formidable and highly injurious to the neighboring states.

The English union jack, and red, or bloody flags, under which they committed their unprovoked hostilities against the American flag, are in my possession, and I shall have the satisfaction of forwarding them to the Department, by the first safe conveyance. It appears very extraordinary, and remains with the English government to explain the authority for the flag being thus hoisted by a band of outlaws, as also their officer, colonel Nicholls, having placed so strong a work, and with so large a supply of arms (most of which were perfectly new and in their cases) ammunition, and every other implement requisite to enable the negroes and Indians to prosecute offen-

sive operations against the United States; in possession of negroes too, known to be runaways from the United States, and that too, sometime after peace had taken place.

Herewith is transmitted a copy of the inventory of the articles saved from the explosion, designating those furnished the army for public use and those brought off and deposited here.

I regret extremely the loss of Mr. Luffborough, killed in the service, who though much indisposed, and having sent in his resignation to the Department, very handsomely volunteered his services and accompanied the expedition; Mr. Loomis reports his conduct in the highest terms of approbation.

I avail myself of this occasion with great satisfaction to recommend to the particular notice of the Department, sailing masters Jarius Loomis and James Bassett, commanding the gun boats on this expedition, as highly meritorious officers.

I cannot but lament exceedingly the great loss of lives occasioned by the destruction of the fort, though caused by their opposition to a passage of the river and hostilities most wickedly commenced upon a friendly flag, under which not the slightest aggression would have been offered them.

The course pursued in this service, and the result will, I trust, meet the approbation of the President of the United States.

I have the honor to be,

With great respect,

Your obedient servant,

DANIEL T. PATTERSON.

*The Hon. Benjamin W. Crowninshield,  
Secretary of the Navy, Washington.*

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No. 25.

*Governor Kindelan to G. Cockburn.*

*Most Excellent Sir,*

The support and protection which the subaltern officers of the troops under your command, now on Cumberland Island, afford to the runaways slaves of this province, under my charge, inviting them

to desert their masters, and enlist as soldiers, with the tempting promise of the liberty, which they will enjoy, when once they are transported to H. B. majesty's colonies, has filled with consternation the peaceable inhabitants, subjects of H. C. M., to which may be added, the aggravation offered them, by the manner in which the restoration has been eluded, as to answer the claim which their masters make personally, by saying, that they might take those that would accompany them voluntarily, is the same thing as to refuse their restoration; for where is the slave that will voluntarily return to slavery, if left to his election? For my part, even if there did not exist that good understanding, concord, and friendship betwixt our respective nations, I should feel very averse to suppose that the British government, generous England, would tolerate in its subjects, the spoliation of this property, belonging to the pacific, industrious and defenceless planter, not only of a friendly power, but (excepting in certain cases) I conceive, they would not permit it towards an enemy; I pronounce it as undeniable, that this laudable maxim has ever been so religiously observed by civilized and enlightened people, that until now it has always been considered as an inviolable principle of the laws of nations.

This abuse or disorder, most excellent sir, from its important nature, demands from your excellency, the most prompt and efficacious remedy in your power, in order to do away those appearances of hostility, which such unusual proceedings manifest; as well as to avoid the consequences which must result from them, and which, for my part, I shall endeavor to obviate by every means in my power, requesting Y. E. again to order the restoration, without restriction, of the aforesaid Spanish property, which I now demand of you, officially, for the second time.

Permit me to offer to Y. E. personally, my sentiments of high consideration, whose life I pray God to preserve many years.

(Signed)

SOB. KINDELAN.

*St. Augustine, E. F.*

*18th February 1815.*

*His Excellency George Cockburn, &c. &c. &c.*

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No. 28.

*General Jackson to Governor Mazot.*

*Head Quarters, Division of the South,  
Fort Gadsden, March 25, 1818.*

SIR, I have ordered a supply of provisions to be sent from New Orleans, via Pensacola, to Fort Crawford on the Conaco. This route

has been adopted as the most speedy one of provisioning one of my garrisons, which must be maintained during the present contest against our mutual enemies the Seminole Indians. And I cannot but express a hope, that no attempt will be made to interrupt the free passage of my transports to that post. I am not disposed to enter into any controversy with you on the right which our government may claim to the free navigation of such water courses as head within her limits, but flow through the territory of his catholic majesty; preferring to leave these subjects to be settled by those legally authorized. But as it is necessary for me to make use of the Escambia river, in passing up provisions to the garrison at Fort Crawford, I wish to be distinctly understood, that any attempt to interrupt the passage of my transports, cannot be received in any other light than as a hostile act on your part. I will not permit myself for a moment to believe, that you would commit an act so contrary to the interests of the king your master. His catholic majesty, as well as the United States, are alike interested in chastising a savage foe, who have too long warred with impunity against his subjects, as well as the citizens of this republic; and I feel persuaded, that every aid which you can give to promote this object, will be cheerfully tendered.

I am, with sentiments of respect,

Your obedient servant,

(Signed)

ANDREW JACKSON.

*Major General Commanding.*

*Jose Mazot, Governor of Pensacola.*

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No. 29.

*Gov. Mazot to Gen. Jackson.*

(Translation.)

*Most Excellent Sir,*

Your excellency's letter of the 25th of last month has been delivered to me, also that of the 16th, in answer to mine of the 16th of February preceding. I now have the honor to acknowledge the receipt of both, and to reply to the former.

In the month of May last, yielding to a spirit of conciliation, I gave permission to the schooner *Victory* from New Orleans, to pass up the *Escambia* to the American fort with a cargo of provisions: prompted by the same sentiment, I gave a similar permission in January last, to captain Call of the schooner *Italiana*, to proceed to the same place; and subsequently, pursuing the same friendly and conciliatory feelings, I allowed lieut. Eddy, belonging to the garrison of the fort above alluded to, who had been commissioned for that purpose by major Youngs the commandant, to supply himself here with sixty barrels of provisions. The cargo of the schooner *Italiana* being still deposited here, I conceive that the introduction of the further supply requested by your excellency, is not necessary at present. Notwithstanding this, as I infer from your excellency's letter that the said provisions are now on the way, and am disposed to grant the same indulgence as heretofore, while it is not less my duty to enforce the established regulations and restrictions, which require that the supplies should be consigned to a Spanish trading house, which will undertake to forward them and secure the payment of the royal import and export duties. I will give permission for them to pass in like manner as the first, it being however well understood, that neither now nor hereafter, the United States can pretend to or acquire any right in consequence of these indulgences, which are perfectly gratuitous, and granted solely in consequence of existing circumstances, which, as your excellency states to me, prevent the arrival of supplies to the said fort Crawford through any other channel; in addition you are pleased to remark, that, you are not disposed to enter into any discussion with me on the subject of the right which may be claimed by the United States to the free navigation of the *Escambia*.

To a discussion of this nature I am no less averse than your excellency; because it is one not within my province, and because it is my duty, as a subordinate officer to conform to the orders of my superior; therefore, until I receive orders to the contrary, I am bound, in reference to this point, strictly to adhere to the existing treaties between the United States and Spain. On referring to the last treaty of amity, limits and navigation, I perceive nothing that stipulates the free navigation of the river alluded to; but on the contrary, that the sovereignty of the king my master in and over all the territories, coasts, rivers, posts and bays, situate to the south of the thirty-first degree of north latitude, is solemnly and explicitly acknowledged by the United States. And if, in consideration of the present extraordinary circumstances, farther momentary concessions are required, I request your excellency to have the goodness to apply for that purpose in future to the authority on whom they may depend, as I am wholly unauthorized in this matter.

God preserve you many years!

[Signed]

JOSE MASOT.

*Pensacola, 15th April, 1818.*

*To his Excellency Andrew Jackson.*

True copies of the documents deposited in this command. Pensacola, 2d May, 1818, in the absence of the Secretary (by indisposition)

[Signed]

**BUENAVENTURA DUBREUIL.**

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No. 30.

*General Jackson to Governor Mazot.*

*Head Quarters, Division of the South,  
St. Marks, April 27th, 1818.*

SIR,

After I left this post for St Juan, to disperse and destroy the mutual enemy of Spain, and the United States, a small schooner with men and supplies arrived from Pensacola, and was taken possession of, and detained by my officer left in command. This vessel has been liberated, with all her effects, excepting some cloathing of the United States, (unaccompanied with any invoice,) and which has been detained as supposed to be a part of that taken in the boat, within the territory of this republic, in which lieutenant Scott, of the United States army, with his command, were so inhumanly massacred.

I regret being compelled to state to you, that from the papers and other proofs taken at St. Juan, the quantity of American cattle found at St. Marks, and purchased by me from the commissary of the post, and the intercourse kept up between this post and the hostile Indians, there is too much ground to believe, that the Indians have been encouraged, aided, and abetted by the officers of Spain in this cruel war against the United States. Proof positive exists that the Indians were supplied with ammunition by the late commandant of St. Marks. The United States cloathing being found on board of a vessel, in the employ of the government of Spain, sailing from Pensacola, direct for this post, compels me to call on you for a statement in what manner you came possessed of said cloathing.

The good understanding that so happily exists between his catholic majesty and the United States, formed a just ground to believe, that his agents would have discountenanced this cruel and savage war, waged against the citizens of this republic; too weak to comply

with her treaties with the United States, or chastise her own savage subjects waging war against a friendly nation. It was scarcely to be believed that her officers would have been detected in aiding and abetting this enemy, assisting her with intelligence of our movements, and purchasing of him the property depredated of us. America, just to her treaties, and anxious to maintain peace with the world, cannot, and will not permit such a savage war to be carried on in disguise any longer.

Asylums have been granted to the persons and property of our Indian foe, (fugitives from the territory of the United States.) Facilities deemed by me necessary to terminate a war, which, under existing treaties, should have been maintained by Spain, for feeding my troops, and liberating the subjects of Spain, imprisoned by the Indians, have all been denied by the officers of his catholic majesty. All these facts prove the unjust conduct of Spanish agents in the Floridas. It cannot be longer tolerated; and although a republic fond of peace, the United States know her rights, and at the expense of war will maintain them.

(Signed)

ANDREW JACKSON.

*Maj. Gen. Commanding.*

*Don Jose Mazot, Gov. of Pensacola.*

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No. 31.

*Governor Mazot to Major Youngs.*

(Translation.)

*The commandant of West Florida to Major Youngs, encamped on the banks of the Escambia.*

SIR,

Your letters of the 27th instant, dated, camp on the Escambia and Fort Crawford, enclosing a proclamation, were this day delivered to me at 3 o'clock P. M. by an artificer, a man of color, whose immediate return does not allow me at present to reply particularly to them, and I shall only state that the few peaceful Indians who

were at this place and in its neighborhood, left it on the 26th, and at day break several of them were murdered by the troops of the United States, and among them some women and children: as I am unable to account for this act and the violation resulting from it, I have to inform you that I shall transmit an account of the whole transaction to my superior, and I hope that in the meantime, you will not permit any further hostilities to be committed on any pretence in this territory, and in case the Indians give any reason for complaint that you will inform me of it, that I may chastise them for it as far as it depends on my authority.

If there be Indians still remaining in this territory, I will have them sought for and communicate your letter to them, and advise you of the result. I do assure you on my word that your statement of the aggressions committed by the Indians, is the first intelligence I have had of it, and that when I agreed to the passage of the escort of which you speak, those Indians of whom lieutenant Eddy was apprehensive were the only ones pointed out to me.

I must repeat to you that all my wishes and efforts are directed to preserving the peace happily subsisting between our governments, and relying on your friendly sentiments towards me, I offer you in return the assurances of mine.

God preserve you many years.

JOSE MAZOT.

*Pensacola, 27th April, 1818.*

*To Major White Youngs,  
commanding the U. S. troops on the Escambia.*

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*The same to the same.*

SIR,

In consequence of the request contained in your letter of the 27th instant, I assembled the principal chiefs of the Upper Creek towns of Colome, Canaan, Corvale and Forsatche, and communicated its contents to them: they all replied that they had long been very unhappy and miserable, without shelter or country; but that at last, by the advice of a good friend, they had found one, that they all



cheerfully adopted it, and were very grateful for the offers you had made them. These Indians amount to about 87, including women and children. I have settled that they should divide into two companies, and they will set out as soon as your answer is received, which they think it prudent to keep, as you will, when informed of their acceptance of your offer, be enabled to give proper orders for their safety on their journey, and their avoiding any unpleasant rencounter with the Choctaws, who, if not duly informed of it, might attack them, in which case the measures taken for the peaceful arrangements that we both have so much at heart, would be defeated.

Opahi-hola, an Alabaman chief, on account of his age and infirmities, will remain here for the present with his family. I have given orders for his relief, and pledge myself for his good behavior.

You will always find me ready to unite with you in such measures as may be beneficial to our respective countries, and are conformable to existing treaties. I renew the assurances of my respect, and pray God to preserve you many years!

[Signed]

JOSE MASOT.

*Pensacola, 30th April, 1818.*

*To Major White Youngs.*

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No. 32. a.

(Translation.)

*The governor of West Florida to his Excellency Andrew Jackson.*

*Most Excellent Sir,*

On the 10th instant, I received your letter of the 27th of April last, informing me, that on board a small schooner despatched from this port for Apalache, there were found several articles of clothing, such as is used by the United States troops, and which you suppose were taken in the boat in which lieutenant Eddy was unfortunately cut off, together with his escort;—you inquired of me how I came possessed of those articles of clothing; and you proceed to state, that you regret the necessity which compels you to inform me, that from written and other proofs obtained at St. Johns, the quantity of

American cattle found at St. Marks, and the active communication kept up between the latter place and the hostile Indians, there appear sufficient grounds to believe, that they were encouraged and excited to this savage warfare against the United States by the Spanish officers; you add, that there exists positive proofs that the Indians were supplied with ammunition by the late commandant of St. Marks; and you conclude by declaring, that shelter and protection have been given at this place to the persons and property of the Indians who are in hostility with the United States, and have fled from the American territory; that these facts and the refusal to allow the passage of provisions for the supply of your troops, fully evince the unjust conduct of the Spanish agents in the Floridas. To these several charges I shall reply in their order frankly, unreservedly, and unequivocally. The first relates to the articles of cloathing found on board the schooner Maria, and detained on the presumption of their being the property of the United States. A part of these, as is proved by the copy No. 1, was purchased at New Orleans in May last; a part came from Havanna, and part was bought here; all which being fully substantiated, the charge is consequently disproved, and your inquiry satisfactorily answered. The second is more serious, and refers to the conduct of the commandant of St. Marks at a recent period. I immediately demanded of him an account of his proceedings, his report of which is enclosed under the No. 2. But as I am desirous that you would bring forward unquestionable proof of the misconduct of that officer, I have to request you to furnish me with it, in order that, if his misconduct be established, he may receive condign punishment; hereby assuring your excellency, with that sincerity which belongs to me, that, in such event, he has acted entirely contrary to his instructions, and that on receiving the evidence required, he shall be tried by a court martial, and punished in an exemplary manner, according to the merits of the case; your sense of equity will however satisfy you, that the Spanish government cannot be held responsible for the misconduct of its agents, while it does not support them in it, nor tolerate their errors when proved.

Your subsequent complaints are directed personally and pointedly against me, and relate to the shelter and protection alleged to have been afforded to the persons and property of fugitive Indians, and to the passage of provisions up the Escambia. The best mode of giving a satisfactory answer to these charges, will be to offer you a brief and faithful statement of facts. With respect to the Indians you have assuredly not been correctly informed; for although some few remained permanently here, chiefly consisting of women and children employed in supplying the inhabitants with fish, fuel, and other trifling articles, and had been living here long before the present war with the Seminoles, it is a fact, that when I sent around to assemble them for the purpose of communicating to them the proposal of major Youngs, their whole number amounted but to 87, and surely the small proportion of men among them, unarmed, misera-

ble, and defenceless, could not be considered as objects of hostility to the United States, a proof of which was shown in the continual passage of American citizens to this place, travelling unarmed and alone, without a single instance of accident happening either to their persons or property. In regard to the passage of provisions up the Escambia, so far from suspending it, I facilitated it as far as depended on me, even to committing myself; since as a subordinate officer, I could not becomingly allow a proceeding which was not fully authorized; I therefore, in consideration of circumstances, took that responsibility upon myself, as I stated to your excellency in my letter of the 15th ultimo by major Perault, to which I beg your reference. But with a view to the benefit of this place, by means of a free intercourse with the interior. I hereby declare, that in future, the merchants and traders belonging to it, shall pass freely from hence to fort Crawford and other places on the frontier, and transport all necessary supplies, either by land or water, by which means it is to be expected, they will be abundantly provided, and your excellency entirely satisfied.

In offering you these explanations and details, I flatter myself I have given so full and satisfactory an answer to your excellency's letter, as to leave no doubt of the sincerity of my intentions, and at the same time, to have presented a certain pledge, that it is my earnest wish to contribute, by every means in my power, to the maintenance of the good understanding happily subsisting between our two governments. God preserve you many years!

(Signed) JOSE MASOT.

*Pensacola, May 18, 1818.*

*To his excellency Andrew Jackson.*

A true copy of the original deposited in the office of the secretary of the government of this province, under my charge.

(Signed) CARLOS REGGIO.

*Pensacola, May 31, 1818.*

No. 32. b.

[Translation.]

*Certificates from New Orleans and Pensacola.*

Having observed, among other things, what is stated to you by major general Andrew Jackson of the United States troops, in his note of the 27th of April last, and communicated to me in yours of

the 13th instant, in which you request me to inform you of what description the articles were, referred to by the said general; also, by whom the coats worn by the men belonging to the grey and brown companies (de Pardos y Morenos) from the Havana, under my command, were sold or brought to this place, they being the same uniform as that worn by the troops of the United States, I have to inform you in reply, that with respect to the articles of clothing shipped on board the schooner *Maria*, for the supply of a detachment from the aforesaid companies at Apalache, and detained by general Jackson, they consisted of fifteen four point woollen blankets, and were brought here in his majesty's schooner brigantine "el Almirante," arrived in this port 2d January last; twenty-five pair of French shoes, bought here of Don Henrique Grandpré, as per exhibit No. 1. annexed; fifteen common negro hats, bought of Don Henrique Michellet, per exhibit No. 2; and twenty shirts of Crea linen, and the same number of pantaloons, received by the above named armed vessel, with the exception of three or four of the latter articles, which were made in North America for the use of their troops, and came into my possession in the manner I shall presently explain to you. All which clothing I requested you, in mine of the 7th April, to be pleased to direct the proper department to have inserted in the clearance, as being for its account and risk. By the voucher annexed, No. 3, you will perceive, that on the 1st and 4th of May last, and 29th of July, there were shipped to me by Don Pedro Dalharte y Clateria, merchant of New Orleans, the hundred and thirty-one coats of the uniform reformed there, according to his letter of advice; also, twenty eight pair of shoes, twenty Russia sheeting waistcoats, two hundred and fifty three leathern caps for the use of the chasseurs, and a quantity of half boots and leather stocks; all which articles were purchased from the military storekeeper at New Orleans, and brought here in the schooners *Maria* and *Jalousie*, under the charge of their skippers, Bartelome Alberty, and Jose Medina, who included them in the manifests they exhibited on arrivals, and the duties on them were secured, as appears by their appraisement by the proper officers on the 19th May and 11th August last. Hence, it is evident, that the conjecture formed by general Jackson, that the articles of clothing detained by him, were part of those captured from the escort of lieutenant Scott, at the time he was cut off within the limits of the territory of the republic, is entirely disproved; inasmuch as the unfortunate accident of that officer and his escort happened on the Apalachicola in December last, and the articles of clothing alluded to were purchased in New Orleans, in May and July preceding, as is fully proved by the letters of advice and invoices comprised in exhibit No. 3, to which I have referred above. God preserve you many years!

*Pensacola, May 18th, 1818.*

[Signed]

BENIGNO GARCIA CALDERON.

*To Jose Masot.*

No. 1. I hereby certify, that on the 10th of February last, I sold to captain Don Benigno Garcia Calderon, commanding the grey and brown companies from Havana, two hundred and eighteen pair of French shoes, iron shod, for the use of the men belonging to the said companies; and at the request of the said officer, I have delivered him the present certificate, dated at Pensacola, this 18th day of May, 1818.

[Signed]

HENRIQUE DE GRANDPRE.

No. 2. I hereby certify, that on the 12th of February last, I sold to captain Don Benigno Garcia Calderon, commanding the grey and brown companies from the Havana, nine dozen round negro hats, for the use of the men belonging to the said companies; and at the request of the said officer, I have delivered him the present certificate, dated at Pensacola, this 18th day of May, 1818.

[Signed]

HENRIQUE MICHELET.

No. 3.

*New Orleans, 30th April, 1817.**To Don Benigno Garcia Calderon, Pensacola.*

Enclosed you have an account of the cost and charges of fifty-four shirts and twenty-eight pair of shoes, for amount whereof you are debited in account fifty three dollars. Although I had no orders from you for the shirts, I was induced to purchase them by the low prices and the probability of your employing them to advantage. In the sack they are put up in, you will find a uniform coat which has been reformed here and can be set by the store-keeper at twelve rials. I think it would answer. There are a hundred and twenty of them. I am offered by the same store-keeper fifty field tents, nearly new, at three dollars, and a parcel of strong leathern caps, such as worn by the chasseurs, that can be set at less than two rials, of which there are about two hundred. The store keeper having made me a second offer of the shirts, I proposed to take them in barter for coffee, at ten or eight and a half; even at ten, I am persuaded it would be a good bargain, as it would give the opportunity of putting off the coffee, its inferior quality making it rather dull sale. The quality most called for is the green, which is much superior, and that hardly commands twenty dollars. The cost and charges of the said shipment of shirts, by schooner Maria, are carried to your debit in account current, viz.

§ 176 13.

Account of costs and charges of sundries shipped on board the schooner Maria, captain Elberty, for account and risk of, and to be delivered to Don Benigno Garcia de Caldéron, Pensacola, viz:

C No. 1	1 Sack containing 28 pair Shoes, at	6rs	\$ 21 00
2	1 Sack containing 54 Shirts, at	4rs	27 00
	1 Coat		1 50
	Sack, twine, & packing,		1 00
			<hr/>
			\$ 50 50
	Commission, 5 per cent.		2 50
			<hr/>
	Amount to the debit of Don B. Garcia Calderon,		\$ 53 00
			<hr/> <hr/>

(Signed) PEDRO DALHARTE Y CLARERIA,

*New Orleans, May 1, 1817.*

Account of costs and charges of ten sacks, containing one hundred and thirty one coats, shipped on board the schooner Maria, captain Granperta, for the risk of Don Benigno Garcia Calderon, at Pensacola, and to be delivered to him there, viz:

C No. 3 a 12	10 Sacks containing 131 Coats, at	10rs	\$ 163 75
	Sacks, twine & packing,		4 00
			<hr/>
			\$ 167 75
	Commission, 5 per cent.		8 38
			<hr/>
	Amount to the debit of Don Benigno Garcia Calderon,		\$ 176 13
			<hr/> <hr/>

(Signed) PEDRO DALHARTE Y CLARERIA,

*New Orleans, May 29, 1817.*

*New Orleans, July 29, 1817.*

*To Don Benigno Garcia de Calderon, Pensacola.*

At the receipt of yours, the caps were already agreed for, with some other articles of clothing, amounting as per invoice annexed to, \$317 16 1-4 to your debit in account. I suspended the purchase of the hats, which run from 8 to 10 dollars per dozen.

Account of costs and charges of sundries, shipped in two hogsheads, three barrels, two cases, and one sack, on board the schooner

Jalouse, Jose Medina master, for account and risk of Don Benigno Garcia Calderon, at Pensacola, and to be delivered to him there, viz.

25	Cotonade Pantaloons	- - -	at 50rs	-	\$ 12 50
236	Flannel under Waistcoats	- - -	370	- -	88 50
253	Caps	- - -	18 $\frac{3}{4}$	-	47 43 $\frac{3}{4}$
A parcel of leathern gaiters & spatterdashes					
20	Russia sheeting short Vest	} 106 ps. a \$ 1 - 106 00			
51	Pantaloons				
35	Cotton Shirts				
29	Ditto				
	Cord, cooperage, &c.	- - -	- - -	-	3 50
					\$ 302 06 $\frac{1}{4}$
Commission at 5 per cent.					15 10

Amount to the debit of Don Benigno Garcia Calderon, \$ 317 16 $\frac{1}{4}$

(Signed) **PEDRO DALHARTE Y CLARERIA.**

*New Orleans, July 29, 1817*

We, the subscribers, merchants of Pensacola, hereby certify, that the foregoing paragraphs of letters of advice and invoices, are true copies of the originals, exhibited to us by captain Don Benigno Garcia Calderon, commanding the Grey and Brown, companies from Havana; and that the signatures thereto subscribed, are in the true hand writing of Don Pedro Dalharte y Clareria, a citizen of the United States, and merchant at New Orleans. In testimony whereof we have given the present certificate, at the request of the aforesaid captain Calderon, at Pensacola, this 18th day of May, 1818.

(Signed) **HENRIQUE MICHELET,  
VICENTE DE ORDOZGOITTI,  
VTE. BASTLONGUE.**

No. 32. c.

[Translation.]

*Defence of F. C. Luengo, Commandant of St. Marks.*

In replying to your letter of yesterday's date, in which, among other things connected with its subject, you communicate to me the several points treated of by major general Jackson, in his letter of the

27th ultimo, and on which he founds his assertion, that the Indians not only received succours at Apalache, but that they were excited to commit hostilities against the forces of the United States, and of whose movements they were exactly informed, I have to express my utter astonishment at this business, in which imposture and malevolence have been equally employed, to criminate the parties alluded to in the general's letter. It is stated by the general, that from written and other proofs obtained at St. Johns, the number of American cattle found at St. Marks, and bought by the commissary there, and the constant intercourse kept up between that place and the hostile Indians, there appear sufficient grounds to believe, that they were encouraged and excited to this savage warfare by the Spaniards. To this I have to reply, that it has never come to my knowledge, that any person belonging to the fort had any connexion, directly or indirectly, with St. Johns; and although it is true I wrote two letters to Mr. Arbuthnott, an English merchant, one of them was merely to thank him for the three letters he wrote me, informing me of the proceedings of the insurgents at Amelia Island, and of captain Woodbine, who, I informed you by express, was one of the two chiefs who were hung the day I left Apalache; and the purport of the other was, to request him to come or send immediately for the property which, at the request of the Indian chiefs, and to avoid increasing I gave permission to be deposited in the fort, and to withdraw O — Kelagne, in whose custody that property was placed: and although, in taking this step, I ran the risk of incurring the resentment of both parties, yet it was one which did not seem likely to incur suspicion. Nor does the charge of a purchase of an extraordinary number of American cattle, alleged to have been made at St. Marks, authorize greater room for suspicion, since it is notorious, that from the time of its establishment, its supplies were obtained from the drovers of cattle brought there for sale by the Indians, who had very large ones towards Mikasuky and the neighboring country. It seldom happened that we considered ourselves as fully supplied for several months together; and if the supplies were in fact derived from the plunder committed on the Americans, the sellers took good care to conceal that fact; as they were known to have droves, and were in the habit of bringing them for sale. It may be remarked, that very little care was manifested by the American commandant or magistrate, within whose district these excesses were committed, to be placed in a situation to complain of them to the commandant of St. Marks, and to send him the marks of the cattle, which would have shown from whence they came, and have tended to prevent the purchase of them. With respect to the intercourse kept up between the fort and the Indians, complained of by general Jackson, and the excitement and encouragement given them by the Spaniards to commit hostilities, the charge is altogether inadmissible. An intercourse and good understanding with the Indians, was at all times strongly recommended by the government, and never were they more necessary than in the cir-



cumstances in which we have lately been placed at the fort; general Jackson having founded on them a demand of its occupation by his troops, and suggesting that such a step could not fail to receive the approbation of his catholic majesty. In the same letter he stated, that he had been informed by an Indian woman, a prisoner, that the hostile Indians and negroes had received considerable supplies of ammunition at the fort. I presumed that I had convinced him of the contrary in my answer, in which I represented to him, that no one better than Mr. William Hambly, who, during his stay here, repeatedly interpreted to me the anxiety of the chiefs to obtain such supplies, could undeceive him on this point, as well as on that of the counsel I uniformly gave them, to avoid the destruction that awaited them, and which I foresaw from the first. But it appears he is not yet satisfied, and persists in his charge. A reference to the returns of the public storekeeper, will show that from the month of May last, and prior to the receipt of your orders, there had been issued to a few of the most noted chiefs, and that merely from motives of policy, only three pounds of powder, three pounds of ball, and fourteen flints. The interpreter, Juan Sandoval, and his son Francisco, through whom I communicated with the Indians, can testify to the truth of this statement; a step which I request of you to have taken, in support of my refutation of general Jackson's charge. He cannot but know, that a short time before the negro fort on the Apalachicola was blown up, all the chiefs of the neighboring tribes went there and supplied themselves with powder and ball, left for them by the English; and that at Mickasuky, and the huts thereabouts, there was a considerable quantity. Having thus obtained a large supply of the kind of powder and ball they most esteemed, they set little value on ours; which, in fact, they view with such indifference, that it is only a chance hunter among those who come to the fort with venison, wild fowl, &c. that is willing to use it; and although, as I formerly stated in an official communication; a supply was repeatedly demanded of me by the chief Kinache, with a view to prove, by the refusal of it, that the American interest prevailed in the fort, he did not succeed in it. In consequence, we, whom they considered as American partizans to the last, were reproached with it, and have even to put up with some impertinences from them. I shall however, in a strict adherence to truth, and because the circumstance may have given birth to these suspicions, proceed to state, that the chief Pelis-acho, who was executed, received, among other things, at the fort, from Mr. Arbutnott, an English merchant, when he came from Savannah, to request against the negroes, from whom he apprehended an attack, a small barrel of powder, which might contain from 20 to 25 lbs. and was placed, with other property, under the charge of O-Kelagne. What he did with it, I know not; but I well know, that the chief caused me extreme perplexity and vexation, by surrounding the fort with a body of four or five hundred Indians.

I never had an idea that he employed it against the Americans, but that he used it in the purchase of peltry, which he was collecting for the said Arbourknot, at the time of the arrival of the Americans. The charge alleged against the officers at St. Marks in exciting and stirring up the Indians, and in giving them information of the movements of the Americans, is the effect of a disordered imagination; for how or whence could their movements be better known at the fort than from the Indians themselves? Thither they came and went, and passed and repassed incessantly, and their reports were so various, that they deserved very little attention: as a proof of which, nothing certain was known of their operations, until the different columns of their troops appeared at the mouth of the Pinar, and although three of their boats were at anchor there for three or four days, they kept English colors flying until the day before the arrival of the army. My different communications to you are pledges that I took no part in the contest between the Americans and the Indians. I however had great cause of complaint against the latter. How then is it possible to believe that I gave them that aid of which general Jackson complains, or how can the steps I took to liberate Messrs. Edmund Doyle and William Hambly, by which I exposed myself and my garrison to the vengeance of the Indians, be reconciled with the idea of affording them succor and aid, or the fact of rescuing from them, at the most critical moment, an American soldier, whom they would otherwise have put to death? I leave it to impartial observers to decide, if these be not proofs of the existence at St. Marks of a bias in favor of the American interest; and of this I trust general Jackson will be thoroughly convinced, on deliberately reflecting upon the subject. I shall not attempt to deny, that I have observed towards those barbarians, a policy, which had the appearance of a warm friendship, but by which I have incurred a considerable expense. If, however, my situation be attentively examined in its different points of view, it will be seen that all this was necessary, to restrain them from doing what they had at one time premeditated on the pretext I have just alluded to; and on others suggested to them by some persons who had gone from hence to those parts of the country. Although I have, as I conceive, given entire satisfaction on all the points embraced by major general Jackson, I beg leave to request, that for the purpose of corroborating my statement you will be pleased to give orders for having the declarations taken of the interpreter and of his son, of the subaltern Don Miguel Ordonez; of Don Anastasio Montes de Oca, the public storekeeper, and of surgeon Don Diego de Barrios, as the persons who have the necessary knowledge of the subjects in question.

God preserve you many years!

[Signed]

FRANCISCO CASO Y LUENGO.

*Pensacola, 14th May, 1818.*

*To Don Jose Masot.*

[Signed]

A true copy.

JOSE MASOT.

## No. 33.

*Governor Masot to General Jackson.*

(Translation.)

*Don Jose Masot to the commander of the American troops.*

Having received information that you have passed the frontiers with the troops under your command, and are now within the territory of this province of West Florida, which is under my government, I have solemnly to protest against this proceeding, as an offence against my sovereign, and I do exhort you, and require of you, forthwith to withdraw from the same; in default of which, and in case of a continuance of your aggression, I shall repel force by force.

In this event the consequences will doubtless be the effusion of blood, and the interruption of the good understanding which has hitherto subsisted between our two nations; but as the party repelling an insult is never deemed the aggressor, you will be responsible before God and men for all the fatal consequences which may ensue.

God preserve you many years!

[Signed]

JOSE MASOT.

*Pensacola, 23d May, 1818.*

## No. 34.

*General Jackson to Governor Masot.*

*Head Quarters, Division of the South,  
On the line of march, May 23d, 1818.*

SIR,

The southern frontier of the United States has, for more than twelve months, been exposed to all the horrors of a cruel and savage war. A party of outlaws and refugees from the Creek nation; negroes who have fled from their masters, citizens of the United States, and sought an asylum in Florida; and the Seminole Indians inhabiting the territory of Spain, all uniting, have raised the tomahawk, and

in the character of savage warfare, have neither regarded sex or age; helpless women have been massacred, and the cradle crimsoned with the blood of innocence. The United States, true to their own engagements, and confiding in the faith of Spain to enforce existing treaties, never entertained a doubt but that these atrocities would early attract the attention of the Spanish government, and that speedy and effectual measures would have been adopted for their suppression. Under this persuasion, a cordon of military posts were established, to give immediate protection to such of our frontier settlers as were peculiarly exposed, and strict injunctions issued to the American officers to respect the territory of Spain, and not to attempt operations within its limits. These instructions were most scrupulously observed; and notwithstanding the inactivity of the American troops had encouraged the Indians to the more daring and outrageous acts of violence against our citizens, the government of the United States was still disposed to respect the territory of Spain, and confide in the ability of the Spanish government to execute existing treaties, until advised through you, that with every disposition, the Spanish authorities had not the power of controlling the Indians in Florida; that their acts of late were viewed as equally hostile to the interests of Spain as those of the United States; that Spanish subjects were not exempted from the evils of which we complained; and that the negro establishments in the Apalachicola and St. Juan rivers, were founded by British agents, contrary to the will of Spain. These representations determined the President of the United States to adopt effectual measures to restore tranquillity to the southern frontier of the American republic; and pursuant to his orders, justifiable by the immutable laws of self defence, I have penetrated into Florida, reduced to ashes the Seminole villages, destroyed their magazines of provisions, beaten their warriors whenever they hazarded a contest, dispersed some, and expelled others across the river.

In the course of my operations, it became necessary to visit the Spanish fortress of St. Marks. Entering the territory of Spain to fight her battles, to relieve from bondage her subjects, and to chastise an Indian tribe whom she acknowledged, under existing treaties, she was bound to preserve at peace with the United States, I had every reason to expect, that the American army would have been received as friends, and every facility afforded to insure success to operations so interesting to both governments.

My expectations have not been realized. It had been reported to me direct from you, that fort St. Marks had been threatened by the Indians and negroes, and you expressed serious apprehensions, from the weakness of the garrison and defenceless state of the work, for its safety. From other sources to be relied on, the same information had been furnished me. It became necessary, therefore, to anticipate the movements of the enemy, and amicably to get possession of a work, the dislodging the enemy from which might have cost me much precious blood. On entering St. Marks, evidence of the

duplicity and unfriendly feelings of the commandant evinced itself. I found that the gates of his fort had been thrown open to the avowed savage enemies of the United States; that councils of war had been permitted to be held within his own quarters by the chiefs and warriors; that the Spanish store-houses had been appropriated to the use and were then filled with goods belonging to the hostile party; that cattle knowingly plundered from the citizens of the United States, had been contracted for and purchased by the officers of the garrison from the Spanish thieves; that foreign agents had free access within the walls of St. Marks, and a Mr. Arbuthnott, condemned and executed as the instigator of this war, an inmate in the commandant's family.

From this fort was information afforded the enemy of the strength and movements of my army by the said Arbuthnott, the date of departure of express noted by the Spanish commissary, and ammunition, munitions of war and all necessary supplies furnished.

On my return from my operations east, your letter was received positively refusing to permit (unless exorbitant duties were paid) any provisions passing up to the American fort on the Escambia; connected with this strong indication of your unfriendly disposition on your part, I have, from the most unquestionable authority, that the city of Pensacola has for some months past been entirely under the control of Indians; that free ingress and egress is permitted to the avowed savage enemies of the United States; that supplies of ammunition, munitions of war, and provisions have been received by them from thence; that on the 15th of April last, there was no less than 500 Indians in Pensacola, many of them known to be hostile to the United States, and who had but lately escaped my pursuit. The late massacre of 18 individuals on the federal road was committed by Indians direct from their return to Pensacola, who were received by you and transported across the bay to elude the pursuit of the American troops. The Americans returning, the savages were permitted to return. An Indian wounded in pursuit by a party, for having killed a citizen of the United States, was openly, in the sight of many Americans, received by you, and every comfort administered. Such practice, if authorized by the king, would justify me in open hostilities. Disposed however to believe, that it was one of the unauthorized acts of agents, I deem it politic and necessary to occupy Pensacola, and the Barrancas, with an American garrison, until the Spanish government can be advised of the circumstance, and have force sufficient to maintain, and agents disposed to enforce, existing treaties.

This is the third time the American troops have been compelled to enter Pensacola from the same causes. Twice had the enemy been expelled, and the place left in quiet possession of those who had permitted the irregular occupancy. This time it must be held until Spain has the power or will to maintain her neutrality. This is justifiable on the immutable principles of self defence. The government of the United States is bound to protect her citizens, but weak

would be all her efforts and ineffectual the best advised measures, if the Floridas are to be free to every enemy, and on the pretext of policy or necessity, Spanish fortresses are to be opened to their use, and every aid and comfort afforded. I have been explicit, to preclude the necessity of a tedious negotiation. My resolution is fixed; and I have strength enough to enforce. My army now occupies the old fort St. Michael, commanding Pensacola. If the town and Barancas are peaceably surrendered, an inventory of all the property, ammunition, arms, &c. shall be taken by officers appointed by both parties, and the amount receipted for by me, to be accounted for by the American government. The property of Spanish subjects shall be respected; their religion and laws guaranteed to them; the civil government permitted to remain as now established, subject to the control of the military authority of the United States; the ingress and egress open to all individual, commerce free to the subjects of Spain as usual, and the military furnished with transportation to Cuba.

If the peaceable surrender be refused, I shall enter Pensacola by violence, and assume the government, until the transaction can be amicably adjusted by the two governments. The military in this case must be treated as prisoners of war.

The proof supporting the accusation against your official station, will justify this procedure.

In reply to your communication of the 22d instant, I have only to observe, that the cloathing detained will be a subject for future friendly settlement.

How far the Indians permitted to remain in the neighborhood of Pensacola were friendly disposed to the citizens of the United States, is tested by the late massacre committed by them on the Alabama. The Red Ground chiefs, Muldecoxy and Holmes, avowedly hostile to the United States, were but lately seen in Pensacola; and a body of Indians descried, a few days since, in the vicinity of the Barrancas, in presence of several Spanish officers. They have not delivered themselves up, and these Red Sticks who have surrendered, were not advised to this measure by you, until intelligence of my movements had been received.

By a reference to my communications of the 21st March, you will see how far I have been the aggressor in the measure protested against.

You are there distinctly advised of the objects of my operations, and that every attempt on your part to succor the Indians, or to prevent the passage of my provisions in the Escambia, would be viewed in no other light, than as hostile acts on your part.

You have done both, and exposed my troops to the severest privations by the detention occasioned in the exactions of duties on my provision vessels in Pensacola. You have, therefore, been the aggressor and the blood which may be shed by an useless resistance on your part to my demand, will rest on your head. Before God and man you will be responsible.

This will be handed to you by my aid-de-camp, captain Gadsden, by whom an answer is expected.

[Signed]

ANDREW JACKSON,

*Maj. Gen. Commanding.*

*Don Jose Masot,*

*Governor of Pensacola.*

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*Head Quarters, Division of the South,*

*Pensacola, May 24th, 1818.*

SIR,

The enclosed communication, was forwarded to you by my aid-de-camp, captain Gadsden, last evening; not finding you however, in Pensacola, its delivery was delayed.

I have entered Pensacola to provision my troops. I have only to add, that an immediate compliance with my demand is expected. Resistance on your part would be a needless sacrifice of men.

[Signed]

ANDREW JACKSON,

*Maj. Gen. Commanding.*

*Don Jose Masot,*

*Governor of Pensacola,*

*at fort St. Charles, Barrancas.*

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No. 35.

*Gov. Masot to general Jackson:*

(Translation.)

*Don Jose Masot to major general Jackson,*

*Most Excellent Sir,*

Your two notes dated the 23d and on this day, were delivered to me at ten o'clock this morning, by your aid de camp, captain Gads-

den. Having, in mine of the 18th instant, answered the former in a satisfactory manner, I shall only add, that as to what relates to the Indians, you have been much misinformed; the facts alluded to by you, being for the most part unfounded; in proof of which I have to state, that the only two Indians who have been here since the peace negotiated by me, exclusive of the eighty seven sent off to maj Youngs, are the two who are in the jail with three women and children; and further, that long prior to your movements, I had sent orders to Apalaches, to prevent any succours being given to the Seminoles, and also given public notice to the same effect in Pensacola, where those unfortunates had from time immemorial received regular supplies.

Your excellency is disposed to lay to my charge, the blood which may be shed in consequence of my refusal to deliver up this province. A compliance with your demand would dishonor the close of my life, and long military career; and I feel assured, that if placed in a similar situation, your conduct would be the same, from your natural desire to preserve unsullied your well earned laurels.

Whatever motives may be assigned, no nation is authorized in violating the territory of another, before due representations have been made to its government.

Your excellency has violated the Spanish territory at Apalache, by seizing on that fort, and hoisting your flag; a proceeding in complete hostility with the good understanding subsisting between our respective governments.

On the 21st instant, by your excellency's orders, Don Pedro Philibert, with other inhabitants, were made prisoners on their parole of honor, and this day before captain Gadsden's arrival at Pensacola, your army advanced upon it and made prisoner, on his parole of honor, of Don Pedro de Alba, the interpreter, the same who translated your two letters abovementioned. These persons, and other military men, whose presence was important to the tranquillity of the place, have thus been seized in an unjustifiable manner.

These facts being established, I ask, who but your excellency will have to answer for the bloodshed which may ensue in consequence of the determination announced in your letter of taking possession of Pensacola and Barrancas? I protest, before God and men, that my conduct is blameless, and that my sincere wishes ever have been to maintain peace and amity between our respective nations. The sincerity of my intentions is founded upon the President's message of 25th March last to Congress; the tenor of which holds out assurances, that no aggressions were to be expected from the troops of the United States. Unfortunately, however, their operations have violated the tranquillity and peace of the province.

I expect, from the generosity of your excellency, that you will leave the officers and troops of the garrison of Pensacola at perfect liberty; that your army, after receiving the necessary supplies, will



evacuate the province as speedily as possible; and that you will not carry on a partial warfare against West Florida, at a time when our two nations are in a state of profound peace.

Lieutenant colonel Don Leni Piernas, provisional commandant of Pensacola, is duly authorized to represent me, and to receive any communications your excellency may be pleased to make. To all such, the most prompt answers shall be given, through the ministry of the bearer, the interpreter, Don Pedro de Alba. In conclusion, if contrary to my hopes, your excellency should persist in your intention to take possession of this fortress, I am resolved to repel force by force, and defend it to the last extremity. He who resists aggression, can never be deemed the aggressor. God preserve your excellency many years! Fort St. Carlos, Barrancas, 24th May, 1818.

(Signed)

JOSE MASOT.

*His excellency Major General Andrew Jackson,  
Commanding the Army of the United States.*

No. 36.

*General Jackson to Governor Masot.*

*Head Quarters, Division of the South,*

*Pensacola, May 25, 1818.*

SIR,

The accusations against you are founded on the most unquestionable evidence. I have the certificate of individuals, who on the 23d instant at or near the Little Bayou, counted 17 Indians in company of several Spanish officers. I have only to repeat that the Barancas must be occupied by an American garrison, and again to tender you the terms offered if amicably surrendered; resistance would be a wanton sacrifice of blood, for which you and your garrison will have to atone. You cannot expect to defend yourself successfully, and the first shot from your fort must draw down upon you the vengeance of an irritated soldiery. I am well advised of your strength, and cannot but remark on the inconsistency of presuming yourself capable of resisting an army which has conquered the Indian tribes, too strong, agreeably to your own acknowledgement, to be controul-

ed by you. If the force which you are now disposed wantonly to sacrifice, had been wielded against the Seminoles, the American troops had never entered the Floridas. I applaud your feeling as a soldier, in wishing to defend your post; but where resistance is ineffectual, and the opposing force overwhelming, the sacrifice of a few brave men, is an act of wantonness, for which the commanding officer must be accountable to his God.

(Signed)

ANDREW JACKSON,

*Maj. Gen. commanding  
Division of the South.*

*Don José Masot, commanding Barrancas.*

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*Certificates and Declarations.*

No. 37. a.

We certify, that being in fort St. Marks, Barrancas, on the 28th of May, 1818, in the afternoon, soon after the American troops took possession of the work, and as the Spanish troops were marching out, we saw an Indian carried out by some of the Spanish soldiers. He was laid on the beach, to be put on board a boat. He was wounded in his leg or thigh, and had every appearance of having been engaged in the defence of the fort.

(Signed)

WILLIAM RUSSEL,

*Captain Spies.*

JAMES L. BELL,

*Capt. 1st Reg't. I. T. M. G. M.*

Witness, WILLIAM S. FULTON,

*Private Secretary Commanding General.*

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No. 37. b.

I certify, that on the 23d of May, being in the Bayou, which enters Pensacola Bay one and an half miles from the town, I saw at the ferry, on the road to Barrancas, a number of Indians, I think about

17, in company with 4 Spanish officers. The officers were carried over, and the boat returned to ferry over the Indians. I saw one boat load landed on the side next the Barrancas. The Indians concealed themselves in the bushes on discovering us.

(Signed) **RICHARD BRICKHAM.**

Witness, **CROSS**, *lieutenant 1st infantry.*

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I certify, that I was in the boat with Brickham, at the place and time mentioned in the above certificate, that I saw several Indians in company with four Spanish officers. The officers were ferried over with one Indian. I did not see the Indians ferried over; they concealed themselves on discovering us.

(Signed) **JOHN ~~X~~ BONNER,**  
his  
mark.

Witness, **T. CROSS**, *lieutenant 1st infantry.*

Witness to both certificates,

**WILLIAM S. FULTON,**  
*Private Secretary Com'g. Gen'l.*

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No. 37. c.

*Fort Montgomery, June 2, 1818.*

I certify, that between the 5th and 7th of May, 1818, whilst at Fort Gadsden, on the Appalachicola river, I was informed by a Mr. Larua and Benneto Gassea, both citizens of, and at that time direct from Pensacola, that at the time of their departure thence, there were 500 Indians in and about Pensacola; and I further certify, that on my arrival at Pensacola, on the 23d of May, I was informed by Mr. Skeets and other citizens of that place, that on the 22d, which was the day before my arrival, Holmes, (a noted Red Stick) with his party, had left Pensacola to proceed to the Chocktawatchy for safety, having been for several days previous in town. All which I certify on honor.

(Signed) **WM. HAMBLY.**

Witness, **WILLIAM S. FULTON,**  
*Private Sec'ry. Com'g. Gen'l.*

No. 37. d.

*Province of West Florida, Town of Pensacola,  
September 18th, 1818.*

In pursuance with an order to me directed by colonel William King, civil and military governor of said province, (a copy whereof is hereto annexed) I caused to appear before me, at the quarters of captain Hugh Young, of the army of the United States, in this town, the following persons, viz: Manl. Gonzales, Dr. Brosnaham, William Cooper, J. Dauphin, — Skeete, Felipe Prieto, Joachim Barre- las, P. Alba, jr. Jose Bonefai, (Marian) and Charles le Jean, to an- swer on oath, such interrogatories, not tending to criminate them- selves, as might be propounded to them by captain Young, relating to the intercourse which took place between the late Spanish authori- ties of this province, and the hostile Indians, during the recent war with the United States.

Joachim Barrelas being duly sworn, declares, that he has fre- quently seen parties of Indians in the town of Pensacola, since the month of November, 1817, says, that parties of Indians have been provisioned by the late authorities at this place on several occasions; has frequently heard, and believed that the Indians were in the habit of bringing into this place, horses, cattle, &c. for the purpose of sell- ing them and other plunder. Says he was at Barrancas at the time that general Jackson came to Pensacola, in May last; deponent acted there as commissary, and knows that several Indians went from town down to Barrancas with the Spanish forces and took refuge in the fort; that, at the same time, several small parties were encamped about the Barrancas; that upon the arrival of general Jackson before the Barrancas, Tapaulca and family were also in the fort; deponent has seen said chief several times in Pensacola, and believes him to be either a Creek or Seminole Indian; that while deponent was at Bar- rancas, and subsequently to the said month of November, 1817, he saw an Indian named Luna, an express from St. Marks, cross over from Santa Rosa island to Barrancas, with despatches for the gov- ernor here; says that since the said month of November 1817, gov- ernor Masot being himself at Barrancas, did order this deponent to give rations to several parties of Indians then there, of at least from thirty to forty strong, men, women, and children.

(Signed) JOAQN. BARELES.

George Skeate being duly sworn, declares, that he has constant- ly resided in the town of Pensacola since November 1817, since which he has repeatedly seen at different times, in said town, from

thirty to forty Indians; has not seen any ammunition given to the Indians, within the period alluded to; has heard and believes that horses, cattle, &c. were brought into this place, by the Indians and sold, which deponent however did not see. Deponent believes that the late governor Masot was well acquainted with the several murders that were committed on the neighboring American frontier; knows of no supplies furnished by order of the Spanish government, since about the month of March 1817, when a supply of knives, a few blankets, and some copper kettles were furnished, and delivered to a party of Indians, for the purpose, as was then said, of acting against the insurgents, who were expected; that the said party of Indians, shortly disappeared, and nothing more was heard of them. Deponent saw, on the day that major Youngs attacked a party of Indians in the neighborhood of this town, a number of Indians whom he believes were sent (or went themselves) across the bay, in a boat belonging to Don Antonio Molina, captain of the port.

(Signed)                      GEORGE SKEATE.

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*Mr. Charles Le Jeune, being duly sworn, declares:*

That he has resided in Pensacola since November, 1817; since which he has frequently seen, in this town or its vicinity, parties of upwards of an hundred Indians encamped; that these parties were armed, either with rifles or with the arms that were furnished them by the English; that although he cannot state that those parties had received ammunition from the Spanish government here, he nevertheless can and does state, that the said parties were provisioned from the king's stores, by Prieto, king's storekeeper; that previous to November, 1817, the government was regularly in the habit of giving out ammunition to the Indians, from a store which was expressly for that purpose here; that on the day that major Youngs attacked the Indians near this town, there was a considerable number encamped near the water side, in town, who, upon hearing the report of fire arms, crossed the bay in their own boats, and in other larger boats, belonging to others.

(Signed)                      CARLOS LAVALLE.

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*William Cooper, being duly sworn, declares:*

That he has resided in Pensacola since November, 1817; during which period he has frequently seen in town and its vicinity, several parties of Indians; saw one in particular, with some sheet lead; and has heard, that the Indians had introduced some clothes into town

that looked like American manufacture. States also, that Tapaulca was *Red Stick* chief, and had been frequently about Pensacola for several years past.

(Signed) WILLIAM COOPER.

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*Pensacola, September 19th, 1818.*

I certify, that the foregoing depositions were sworn to and subscribed, before me on this day.

(Signed) M. MCKENNEY, Sen.

*J. P. in and for town of Pensacola,  
West Florida.*

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(Copy.)

No. 37. e.

John Duffy being duly sworn, declares as follows.

Question. Have you resided in and about Pensacola since Nov. 1817?

Answer. I have.

Question. Have you seen in said town, or its vicinity, within or since that period any Indians?

Answer. I have.

Question. How many did you see at any particular time?

Answer. About the latter end of that spring I saw in town from fifty or sixty Indians; but few of these were armed because they were prohibited from coming into town armed. I suppose their arms were left in their camps in the neighborhood.

Question. How did these Indians subsist themselves, and how did they procure ammunition?

Answer. Probably from the government here; of this however I am not certain.

Question. Did you see any horses, cattle, or other plunder brought into this place by the Indians?

Answer. No.

Question. How many Indians were in Pensacola and its neighborhood at the time that major Youngs attacked a party near this town?

Answer. Of all descriptions, viz. men, women, and children, there must have been a considerable number, not less probably than one hundred and fifty or sixty.

Question. When major Youngs attacked a party near town, how did those in town find means to escape across the bay?

Answer. I have understood and believe that they were set across the bay by order of the governor.

[Signed]

SANTIAGO DAUPHIN.

A true copy.

R. K. Call, A. D. C.

Joseph Bonifi being duly sworn, declares as follows, viz.

Question. Have you lived in Pensacola since November, 1817?

Answer. I have.

Question. Have you not, between that period and the approach of the American forces under major general Jackson, repeatedly seen divers parties of hostile indians in this town or its neighborhood?

Answer. I have. Indeed between the said month of November and the time that the hostile party surrendered to major Youngs, there were or less in town, sometimes in numbers considerable, sometimes fewer.

Question. How or by whom were those Indians subsisted, and from whom or by what means did they procure ammunition and other warlike stores or weapons?

Answer. I have understood and do believe, that they were fed by the government here; as to ammunition, &c. I cannot state how they procured supplies, except it might have been from the stores about town.

Question. Have you seen or been informed of any horses, cattle, or other plunder having been brought in here by the Indians within the time above alluded to?

Answer. No.

[Signed]

JOSEPH BONIFAY.

*Pensacola.*

Both depositions sworn to and subscribed before me the 19th September, 1818.

[Signed]

M. M'KENNEY, Sen.

*J. P. in and for Pensacola W. Florida.*

A true copy.

R. K. Call, A. D. C.

No. 37. f.

Pierre Senac being solemnly sworn, declares as follows.

That he has resided in the town of Pensacola constantly since the month of November last past; that since that time, and until the arrival of major Youngs near this town, there were always considerable numbers of hostile Indians in or near the town; that on many occasions within that period, he has seen from one hundred and fifty to two hundred Indians here; that their forces were regularly provisioned from the king's store here; that he has seen large quantities of sheet lead in the possession of the Indians, and considers it as greatly resembling the lead aprons of cannon. That the government must have furnished the lead in question, as there were no other means here of getting such lead, and that the said lead was run off into balls, which this deponent saw. That on the day major Youngs attacked a party of Indians near this town, there was then in town a considerable number more who were set across the bay in boats provided for that purpose by the Spanish governor.

Deponent further states, that about the first of March last past, three considerable parties of hostile Indians, one party under the command of Leon Lesassier, another under the command of Arnaud Gilmer, (both lieutenants, in his catholic majesty service) and the third commanded by an Indian chief, retired out of this town, and went down towards the neighborhood of Barancas, where provisions and ammunition were regularly supplied them by the Spanish government; that the said Indians were armed with guns which they had received from the English during the late war, and that they remained encamped within from one to three leagues of Barancas for the space of nearly a month; that these Indians, besides being armed with guns had also tomahawks which deponent understood and believes, were furnished by John Inairarity; and that when the government caused the said parties to be thus assembled and equipped, they were collected at Barancas, for the purpose as deponent conceives, to elude the vigilance of such individuals in Pensacola as would not concur in such measures.

Deponent further states, that since the said month of November last past, he has seen brought in here by the Indians, a quantity of cottonade and women's clothing brought or said to have been brought from the American frontier; that these things were publicly sold in this town, notwithstanding it was notoriously known here, that those articles and property had just been taken from those whom the Indians had killed on the American frontier.

Attest (Signed)

PIERRE SENAC.

(Signed) J. P. ROBINSON, *Interpreter. Pensacola.*

Sworn to and subscribed before me this 19th day of September, 1818.

(Signed)

MILL. KINIEY, Sen.

*Justice of the Peace in and for the town of Pensacola, W. F.*



No. 37. *g.*

Jose S. Caro, a citizen of Pensacola, being sworn, states, that early in the present year, 1818, a party of hostile Indians were in Pensacola, their numbers not known, but probably fifty; that on hearing of the approach of the American army under general Jackson, the governor of Pensacola furnished those Indians with provisions and ammunition, and sent them in public boats across the bay; the deponent saw the rations issued, and the party embarked. The deponent further states, that subsequent to this, he saw three parties of hostile Indians furnished with provisions, the ostensible object of which was to enable those Indians to march to the interior, and give themselves up, but it was very generally believed that those Indians had no such intention. The deponent saw those Indians set out and states that they had their arms.

(Signed) **JOSEPH ESTEVEN CARO.**

Sworn and subscribed before me at Pensacola, 10th September,  
1818

(Signed)

**H. YOUNG,**  
*Cap. Top. Engs.*

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No. 37. *h.*

Charles Baron, a resident of Pensacola, being sworn, states: That about the latter end of April, or beginning of May, 1818, a party of Indians, amounting to near one hundred, were in Pensacola with a quantity of plunder, which, it was generally believed, was taken at the time Stokes' family was murdered on the Escambia. The Indians sold this plunder openly to the inhabitants of Pensacola, and the deponent could not learn that the Spanish authorities at Pensacola made any inquiries respecting it. The deponent further states, that at several times in the present year, 1818, he saw parties of Indians furnished with provisions and ammunition from the king's stores; but he does not recollect the dates of these transactions. The deponent further states, that he has frequently heard Spanish officers at Pensa-

cola, justify the conduct of the Indians towards the United States, manifesting, in their conversation, a decided hostility towards the Americans.

CARLOS BARON.

Sworn before me at Pensacola, September 13th, 1818.

H. YOUNG, *Capt. Top. Eng's.*



No. 38.

*General Jackson to the Secretary of War.*

*Head Quarters, Division of the South, Fort Gadsden, east bank of the Appalachicola river. formerly Negro Fort, March 25, 1818.*

SIR,

At 7 o'clock P. M. on the 9th instant, I reached Fort Scott, with the brigade of Georgia militia, 900 bayonets strong, and some of the friendly Creeks, who had joined me on my march a few days before; where, finding but one quart of corn per man, and a few poor cattle, which, added to the live pork I brought along, would give us three days rations of meat, determined me at once to use this small supply to the best advantage. Accordingly, having been advised by colonel Gibson, quartermaster general, that he would sail from New Orleans on the 12th February, with the supplies; and being also advised, that two sloops with provisions were in the bay, and an officer had been despatched from Fort Scott, in a large keel boat, to bring up a part of their lading; and deeming that the preservation of those supplies would be to preserve the army, and enable me to prosecute the campaign; I assumed the command on the morning of the 10th, ordered the live stock slaughtered and issued to the troops. with one quart of corn to each man, and the line of march to be taken up at 12 meridian. Having to cross the Flint river, and it being very high, combined with some neglect in returning the boats during a very dark night, I was unable to move from the opposite bank until nine o'clock on the morning of the 11th, when I took up my line of march down the east bank of the river for this place, touching the river as often as practicable, looking for the provision boat which was ascending, and which I was fortunate enough to meet on the 13th instant, when I ordered an extra ration to the troops, they not having received

ed a full one of meal or flour since their arrival at Fort Early. On that day, my patrols captured three prisoners, and found some hidden corn. On the morning of the 14th, I ordered the boat down the river to this place, whilst I descended by land, and reached here without interruption on the morning of the 16th. The eligibility of this spot, as a depot, determined me, and I immediately directed my aid-de-camp, lieutenant Gadsden, of the engineer corps, to furnish a plan for, and superintend the erection of a fortification. His talents and indefatigable zeal displayed in the execution of this order, induced me to name it Fort Gadsden, to which he is justly entitled.

On my arrival here, I immediately despatched the boat to the bay for the balance of provisions known to be there, and to ascertain whether the flotilla, in charge of colonel Gibson, had reached there; and which returned on the 19th, with the displeasing intelligence that nothing had been heard from the flotilla from New Orleans, since it was seen passing Fort Bowyer. I immediately put the troops on half rations, and pushed the completion of the fort for the protection of the provisions, in the event of their arrival, intending to march forthwith to the heart of the enemy, and endeavor to subsist upon him. In the mean time, I despatched major Fanning, of the corps of artillery, to take another look into the bay; whose return, on the morning of the 23d, brought the information that colonel Gibson, with one gunboat and three transports, and others in sight, were in the bay. On the same night, I received other information, that no more had arrived. I am, therefore, apprehensive that some of the smaller vessels have been lost, as one gunboat went to pieces, and another when last spoken had one foot water in her hold. All of the vessels had been spoken after a gale which dispersed them. A north and north west wind has prevailed for six days, but has fortunately changed this morning. I am now awaiting a boat from the bay, (which is expected to-day) to complete eight days rations for my troops, upon which I mean to march.

From information received from Pensacola and New Orleans, I have no doubt but that St. Marks is in possession of the Indians. The governor of Pensacola informed captain Call, of the 1st infantry, (now here) that the Indians had demanded arms, ammunition, and provisions, or the possession of the garrison of St. Marks of the commandant, and that he presumed possession would be given from inability to defend it. The Spanish government is bound by treaty to keep the Indians at peace with us; they have acknowledged their incompetency to do this, and are consequently bound by the law of nature and nations, to yield us all facilities to reduce them. Under this consideration, should I be able, I will take possession of the garrison as a depot for my supplies, should it be found in the hands of the Spanish garrison, they having supplied the Indians; but if in the hands of our enemy, I will possess it for the benefit of the United States, as a necessary position for me to hold, to give peace and security to this frontier, and put a final end to Indian warfare in the south.

Finding it very difficult to supply fort Crawford, on the Conaco river, by land, I have ordered the supplies for that garrison, by water, and written to the governor of Pensacola, that if he interrupts them during the present Indian war, I shall view it as aiding our enemy, and treat it as an act of hostility, and stated to him the propriety, under existing circumstances, of his affording all facilities to put down their own, as well as our enemies, and that our governments, whilst negotiating, can take this subject under consideration; but in the mean time, our provisions must pass to fort Crawford, without interruption.

In mine of the 14th February from Hartford, I informed you of the measures adopted to procure supplies, and in my last of the 26th from fort Early I informed you of their situation. To those communications I beg leave to refer you. I have only to add, that I left fort Early for fort Scott, and subsisted my troops on ground pease, corn, and some pork, that I could occasionally procure from the Indians, with some pork that I had on foot, the whole subsistence for man and horse, not costing five hundred dollars. Of all the supplies purchased for the relief of fort Scott, and the support of the Georgia militia, not one pound was received until I passed fort Scott. I said in my last, that blame rested somewhere; the cause of those failures, will in due time, be a subject of investigation, and colonel Brearly has been arrested on the application of general Gaines.

By some strange fatality, unaccountable to me, the Tennessee volunteers have not yet joined me. They promptly left their homes, and through the inclement weather, reached fort Mitchell, where I had ordered them supplies, and where colonel Hayne, who led them, met my instructions to pass by fort Gaines, where he would get a supply of corn, that would enable him to reach fort Scott; but the idea of starvation had stalked abroad; a panic appears to have spread itself every where, and he was told that they were starving at forts Gaines and Scott, and was induced to pass into Georgia for supplies. His men and officers, as reported to me, were willing to risk the worst of consequences, on what they had, to join me; however they have been marched from their supplies, to a country stripped of them, when every consideration should have induced his advisers to have urged him on to secure the supplies in the bay, and preserved themselves and fort Scott from starvation. I have a hope that they will join me before I reach St. Marks, or the towns; this would be desirable, as the troops ordered from New Orleans to protect the supplies, have not reached the bay, and leaving garrisons at forts Scott and Gadsden, weakens my force much, the whole effective strength of the regular, being but 360 privates.

In mine of the 26th ult. from fort Early, informed you that despatches received by general Gaines on the 19th ultimo from the commanding officer at fort Scott, induced him to set out that night for fort Scott, to prevent its abandonment, &c. In his passage down the Flint river, he was shipwrecked, by which he lost his assistant, adja-

tant general, major C. Wright and two soldiers (drowned.) The general reached me six days after, nearly exhausted with hunger and cold, having lost his baggage and clothing, and being compelled to wander in the wood four and a half days without any thing to subsist on, or any clothing except a pair of pantaloons. I am happy to have it in my power to say that he is now with me at the head of his brigade in good health.

The great scarcity of subaltern officers in the 4th and 7th regiments of infantry, has induced me to appoint several young men (present) as second lieutenants in those regiments, who, from personal knowledge and good recommendations, I have no doubt will prove themselves worthy, and trust the measure will meet the approbation of the President. A list of their names and the regiments to which they are attached, will be furnished the adjutant and inspector general by my adjutant general.

I have the honor to be,

Very respectfully,

Your most obedient servant,

ANDREW JACKSON,

*Maj Gen Comdg.*

*The Hon. Jno. C. Calhoun,  
Department of War.*

P. S. Since writing the above I have the pleasure to inform you that the boat from the bay, has arrived with provisions, also colonel Gibson and Capt. M'Kever of the navy. I shall move to-morrow, having made the necessary arrangements with captain M'Kever for his co-operation in transporting my supplies around to the bay of St. Marks from which place I shall do myself the honor to communicate to you. Should our enemy attempt to escape with their supplies and booty to the small Islands, and from thence to carry on a predatory warfare, the assistance of the navy will prevent his escape. Gen. Wm. M'Intosh, commanding the friendly Creeks, who had been ordered to reconnoitre the right bank of the Appalachicola, reported to me on the 19th instant, that he had captured, without the fire of a gun, one hundred and eighty women and children, and fifty three warriors of the Red Ground chief's party with their cattle and supplies; the chief and thirty warriors making their escape on horseback: ten of the warriors attempting their escape after they had surrendered, were killed by the general.

A. J.

No. 39.

*General Jackson to the Secretary of War.**Head Quarters, Division of the South,**Fort Montgomery, June 2, 1818.*

SIR,

The Seminole war having terminated, I deem it politic and advisable, to send to Washington John Blunt and his Indian comrades, who have acted as pilots to me during the late campaign. John Blunt is a Tuckabatchee Indian, has long been friendly to the United States, and in consequence of his opposition to the Red Stick party, during the Creek war, has drawn down upon himself their vengeance during the late contest. His settlement being in an exposed situation on the Appalachian river, he was early attacked by the Seminoles, his property destroyed, and his family rifled from him. Alone he escaped, and fled to Fort Scott, where, joining the American standard, he has proven himself a most zealous friend and faithful pilot to this period. In justice to him, I am bound to state, that to his correct knowledge of the country, and zealous attachment to the cause in which we were engaged, am I measurably indebted for the success of the present campaign.

Mr. Hambly accompanies John Blunt. Mr. H. is a Spanish subject by birth, and has long been a resident as a trader on the Appalachian river. In consequence of his attachment to the American cause, and his active exertions to check the hostile feelings of those Indians disposed to war against the United States, he drew down upon himself and family their vengeance. He was forcibly taken from his home, at an early period of the war; his property, goods, and negroes, taken from him, and he violently transported from Nukamky, Suwany, and St. Marks, until finally relieved by captain M'Kever, of the American navy. Since which period, he has been attached to my army, as Indian interpreter. You will find him an honest and faithful friend to our government, and valuable for the information which he can afford of Spanish policy and intrigue. He is well acquainted with all the transactions of foreign agents in this country, of their practices, &c. and how far encouraged by the Spanish authorities, &c.

With respect, your obedient servant,

ANDREW JACKSON,

*Maj. Gen. Comdg.**The Hon. J. C. Calhoun, Secretary of War.*

No. 40.

*Gen. Jackson to the Secretary of War.**Head Quarters Div. South,**Camp near St. Marks, 8th April, 1818.*

SIR,

I wrote you from Fort Gadsden, communicating the embarrassments under which I had labored previous to my arrival at that post, and my determination, being then in a situation to commence active operations, to penetrate immediately into the centre of the Seminole towns. My army marched on the 26th ultimo, and on the 1st of April was reinforced by the friendly Creek warriors under general M'Intosh, and a detachment of Tennessee volunteers commanded by colonel Elliot. On the same day a mile and a half in advance of the Mekasukean villages, a small party of hostile Indians were discovered judiciously located on a point of land projecting into an extensive marshy pond; the position designated, as since understood, for the concentrating of the Negro and Indian forces to give us battle. They maintained for a short period a spirited attack from my advanced spy companies, but fled and dispersed in every direction upon coming in contact with my flank columns and discovering a movement to encircle them. The pursuit was continued through the Mekasukean towns, until night compelled me to encamp my army. The next day detachments were sent out in every direction to reconnoitre the country, secure all supplies found, and reduce to ashes the villages. This duty was executed to my satisfaction: nearly three hundred houses were consumed, and the greatest abundance of corn, cattle, &c. brought in. Every indication of hostile spirit was found in the habitations of the chiefs; in the council houses of Kenhagee's town, the king of the Mekasukians, more than fifty fresh scalps were found; and in the centre of the public square, the old Red Stick's standard, a *red pole*, was erected crowned with scalps, recognized by the hair as torn from the heads of the unfortunate companions of Scott.

As I had reason to believe that a portion of the hostile Indians had fled to St. Marks, I directed my march towards that fortress. As advised I found that the Indians and Negroes combined had demanded the surrender of that work: the Spanish garrison was too weak to defend it, and there were circumstances reported, producing a strong conviction in my mind, that if not instigated by the Spanish authorities, the Indians had received the means of carrying on the

war from that quarter. Foreign agents, who have been long practising their intrigues and villanies in this country had free access into the camp. St. Marks was necessary as a depot to ensure success to my operations. These considerations determined me to occupy it with an American force: an inventory of the Spanish property, munitions of war, &c. has been taken and receipted for, and the commandant and garrison furnished with transportation to Pensacola. My correspondence with the Spanish commandant, the evidences under which I acted, and a detailed account of my operations, will be furnished you as early as practicable. Success depends upon the rapidity of my movements, and to-morrow, I shall march for the Sewaney river; the destroying the establishments on which, will in my opinion put a final close to this savage war. Captain M'Kever of the navy cruising at my request on this coast has been fortunate enough in securing Francis or Hillis Hajo, the great prophet, and Homattlemico an old Red Stick. They visited his vessels under an impression they were English, from whom as they stated supplies of munitions of war, &c. under late promises were expected. Arbuthnott, a Scotchman, and suspected as one of the instigators of this savage war, was found in St. Mark's. He is in confinement until evidences of his guilt can be collected.

With respect,

Your most obedient servant,

ANDREW JACKSON,

*Major General commanding.*

*The Hon. J. C. Calhoun,  
Secretary of war.*

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No. 41.

*General Jackson to F. C. Luengo,*

*Head Quarters, Division of the South,*

*Before St. Marks, 6th April, 1818.*

SIR,

To chastise a savage foe, who, combined with a lawless band of negro brigands, have for some time past, been carrying on a cruel and unprovoked war against the citizens of the United States, has



compelled the President to direct me to march my army into Florida. I have penetrated to the Mickasuky towns, and reduced them to ashes.

In these towns I found many indications of a hostile spirit. On a red pole, in the centre of the council houses of Kenhagee's town, more than fifty fresh scalps of all ages, from the infant to the aged matron, were found suspended.

In addition to this, upwards of three hundred old scalps were found in the dwellings of the different chiefs settled on the Mickasuky pond. Those barbarians, who escaped death, have fled. From information communicated by the governor of Pensacola, to two of my captains, Gordon and Call, I was induced to believe that they had fled to St. Marks for protection. The governor stated that the Indians and negroes had demanded of you large supplies of munitions of war, with a threat, in the event of a refusal, of taking possession of your fortress. He further expressed an apprehension, that from your defenceless state, they were already in possession of St. Marks. The wife of Chenubby, a noted chief, now a prisoner in my camp, informed me, that the hostile Indians and negroes, obtained their supply of ammunition from St. Marks.

To prevent the recurrence of so gross a violation of neutrality, and to exclude our savage enemies from so strong a hold at St. Marks, I deemed it expedient to garrison that fortress with American troops, until the close of the present war. This measure is justifiable on the immutable principle of self defence, and cannot but be satisfactory, under existing circumstances, to his catholic majesty, the king of Spain. Under existing treaties between our two governments, the king of Spain is bound to preserve in peace, with the citizens of the United States, not only his own subjects, but all Indian tribes residing within his territory. When called upon to fulfill that part of the treaty, in relation to a savage tribe, who have long depredated, with impunity, on the American frontier, incompetency is alleged, with an acknowledgement, that the same tribe have acted in open hostility to the laws, and invaded the rights of his catholic majesty. As a mutual enemy, therefore, it is expected that every facility will be afforded by the agents of the king of Spain, to chastise these lawless, and inhuman savages. In this light is the possession of St. Marks, by the American forces, to be viewed.

I come not as the enemy, but as the friend of Spain. Spanish rights and property will be respected. The property and rights of Spanish subjects will be guaranteed them. An inventory of all public property, munitions of war, &c. shall be made out, and certified by an officer, appointed by each of us, and a receipt given for the same, to be accounted for to his catholic majesty, by the United States. The subject of my possession of the garrison of St. Marks, will be referred to our respective governments for amicable adjustment. Some armed vessels of the United States, are in the bay of St. Marks, with whom I wish to communicate. You will, I trust, furnish me with a small vessel to convey a letter, as well as some sick and wounded, that are

with me. As our mutual savage enemies are concentrating their forces, near or on the Suwany, an early and prompt answer is requested to this letter, with an English translation, as neither myself, or staff, are acquainted with the Spanish.

This will be handed you by aid-de-camp lieutenant James Gadsden, by whom an answer is expected.

I have, &c.

ANDREW JACKSON,  
*Maj. Gen. Commanding.*

*The commanding Officer at St. Marks.*

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No. 42.

(Translation.)

*F. C. Luengo to General Jackson.*

*St. Marks of Apalache, 7th April 1818.*

*Most Excellent Sir,*

Being made to understand, although with the greatest difficulty, the contents of the letter with which your excellency honored me yesterday evening, delivered to me by your aid-de-camp, James Gadsden, I will declare to your excellency the satisfaction the knowledge of your expedition against Mickasukey, has afforded me. That such would be the event could not be doubted, on considering the superior talents and skillful conduct of your excellency, and to these must be attributed the success, on which I tender you my most cordial congratulations.

My chief, the governor of Pensacola, had, in truth, reason to mention to your captains Gordon and Call, what your excellency states to me, and to entertain fears for the fate of this fort, menaced by Indians and negroes, for some months past, and particularly, since they have been disappointed in their expectations of obtaining powder and ball, which they have so repeatedly solicited, and to which they thought themselves entitled, from the practice, which existed, of supplying them annually therewith. This proves how entirely unfounded is the assertion of the wife of the chief Chenubbee,

that the Indians have been supplied with munitions in this fort, since I was advised, and I determined to maintain the most perfect neutrality. No one can better remove from your excellency's mind any unfavorable impressions, you may have formed on this subject, than the bearer William Hambly, as he has at various times interpreted to me the solicitations of the several Indian chiefs, in my neighborhood, and he can also inform you of the advice I always gave them to avoid the destruction which has overtaken them, and which I foresaw from the beginning.

This being realized, and there being now no motive to fear any insult to the fort from these barbarians and the negroes, I beg permission of your excellency to call your attention to the difficulty I should involve myself in with my government, if I were presently to assent to what your excellency proposes to me, to garrison this fort with the troops of the United States, without first receiving its orders. Such I will solicit immediately an opportunity offers, and I do not for a moment doubt that they will be given to me; so zealous is my government to comply with the stipulations between her and the United States. In the interim, I hope your excellency will desist from your intention, and be firmly persuaded of the good faith and harmony which will reign between this garrison, and whatever troops you may think fit to leave in this vicinity, who may assist me in the defence of this fort, on any unforeseen event.

The sick your excellency sent in are lodged in the royal hospital, and I have afforded them every aid which circumstances admit. I hope your excellency will give me other opportunities of evincing the desire I have to satisfy you. I trust your excellency will pardon my not answering you as soon as requested, for reasons which have been given you by your aid-de-camp. I do not accompany this with an English translation, as your excellency desires, because there is no one in the fort capable thereof; but the beforenamed Wm. Hambly proposes to translate it to your excellency in the best manner he can.

May our Lord preserve your excellency many years, such is my prayer.

Most excellent sir, I kiss your excellency's hands.

Your most devoted and obedient servant,

FRANCISCO CASO LUENGO.

*The most excellent Andrew Jackson,*

*General in Chief of the troops of the  
United States, before St. Marks.*

No. 43. a.

*General Jackson to F. C. Luengo.**Head quarters, Division of the South,  
Camp near St. Marks. 7th April. 1818.*

SIR,

I refer you to my communication of yesterday, for the motives which have compelled me to occupy the fort of St. Marks. I again repeat, that I have entered the territory of Spain, as a friend, to chastise a mutual enemy of both nations and whom his catholic majesty was bound, under the most sacred of treaties, to have punished himself. Peculiar circumstances, however, have prevented, and it was therefore expected that every facility would have been given to the American arms, to have ensured success to their operations. The occupation of St. Marks is essential to the accomplishment of my campaign, and is peculiarly so at this period, when evidence is derived from every source, of the designs of the negroes and Indians against that fortress. They are now concentrating with the intention of taking possession of St. Marks the moment my army moves from its vicinity; the dislodging them from which, will cost me more American blood, than I am disposed should be shed. Success to my operations requires despatch; you will excuse me, therefore, in refusing your request, that a suspension should be granted until a permit is obtained from your government, and in insisting that St. Marks should be immediately occupied by American troops.

Major Fanning, my inspector general and lieut. Simmons of the Ordnance Department, are appointed to act with one or two officers nominated on your part, to take an inventory of, and inspect all public property in the fort of St. Marks, for which receipts will be given in the name of the American government.

Any disposition which you would wish made with the private property of yourself, officers, and soldiers, or any other arrangements gratifying to yourself, will be settled by my aids de-camp lieuts. Gadsden, and Glassel.

ANDREW JACKSON,  
*Major Gen. Commg.*

*Don Francisco Caso Luengo,  
Commanding fort Marks.*

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 No. 43. b.
*General Jackson to F. C. Luengo.**Head quarters, Division South,  
Camp near St. Marks, 7th April, 1818.*

SIR,

I have received your protest against my proceedings. The occupancy of fort St. Marks by my troops, previous to your assisting

to the measure, became necessary from the difficulties thrown in the way of an amicable adjustment, notwithstanding my assurances that every arrangement should be made to your satisfaction and expressing a wish that my movements against our common enemy should not be retarded by a tedious negotiation. I again repeat what has been reiterated to you through my aid-de-camp lieut. Gadsden, that your personal rights and private property shall be respected, that your situation shall be made as comfortable as practicable while compelled to remain in fort St. Marks, and that transports shall be furnished as soon as they can be obtained to convey yourself, family, and command to Pensacola.

I daily expect some vessels from the bay of Appalachicola: as soon as they arrive, the most suitable shall be selected for said purpose.

ANDREW JACKSON,

*Major Gen. Commanding.*

*Don Francisco Caso Luengo,  
Governor of St. Marks.*

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No. 44.

*F. C. Luengo to General Jackson.*

[Translated copy.]

*Apalache, 7th April, 1818.*

MOST EXCELLENT SIR,

I should insist on what I stated to your excellency in my letter of this morning, as to the necessity of awaiting orders from the governor of Pensacola, for the delivery of the fort under my command, were I not, in addition to what your excellency says in your answer, threatened by your aid de-camp, and the other officers appointed to negotiate on the subject, and had not so large a body of troops entered, without awaiting my permission, and taken possession of all the stores and posts, lowering the Spanish flag, and hoisting the American. So manifest a violation of the territory of his catholic majesty, obliges me to complain of it, and to protest against it, and I accordingly do protest against it, and beg of your excellency to provide, as speedily as possible, the vessels necessary to transport me to Pensacola, to-

gether with the troops, and those persons who are in the royal employ; and also, to give orders, that, in the interim, the private property and effects of every Spanish individual here be respected. With respect to the public property of his catholic majesty, I have nominated the subaltern of the detachment, and commissary of the fort, to make, with three officers whom you name to me, an inventory thereof.

I repeat to your excellency my respects, and prayers to God to preserve your life many years.

Most excellent sir, I kiss your excellency's hands.

Your most obedient and devoted servant,

**FRANCISCO CASO Y LUENGO.**

*The most excellent Andrew Jackson,  
General of the troops of the United States,  
before St. Marks.*

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No. 45.

*W. Hambly's Certificate, 24th July, 1818.*

I do hereby certify, that during my long residence on the river Apalachicola, my knowledge of the Indian language, and my intimate acquaintance with the different chiefs, gave me many opportunities of knowing through them the advice given them, from time to time, by the governors of West Florida, hostile to the United States. In the year 1812 or 1813, I saw a letter from the governor of Pensacola to the late chief of the Seminoles, Thomas Perryman, advising him to collect his forces and join his upper town brethren, whom he said, had come to a determination to rise in arms and shake off the American yoke; he would supply their arms and ammunition; and he said he was sure that in less than a month, their fathers and protectors the Spaniards would have a sufficient army in the field to aid and protect them. Not long after I saw this letter, a large party of Indians went down to Pensacola, where they received a large supply of ammunition, and some arms. It was but shortly after this, when they attacked and destroyed the garrison of fort Mims; this was the commencement of the first Indian war; on the 13th of December last, when on my plan-

tation on the Apalachicola, I was made a prisoner of by a party of Seminole Indians, and was taken up to the Ocheehee Bluffs, in company with Mr. Doyle, who was made a prisoner of with me; they kept us here three days, during which time they were busily engaged with some transports which were then ascending the river to fort Scott; from thence they took us to the Mekasukee, where the Indians informed me that they had been told by the commandant of St. Marks, that war was declared between Spain and the United States. From this place we were carried to the Suwanee, when Kenhagee, principal chief of the Seminoles, told me that we had been taken and robbed by order of Arbuthnott, and brought there to be tried by him; shortly after we reached this, Arbuthnott arrived from Providence, when we were tried and sentenced by said Arbuthnott to be tortured; this sentence was not put in execution by the friendly interference of Mr. Cook, clerk to Arbuthnott, and the negro chief Nero; we were then conducted back to the Mekasukee; then Kenhagee went down to the fort St. Marks, to consult the commandant if he would take us as prisoners to keep at his order; they held a council among the neighboring chiefs, and on the fifth day he returned and ordered us to be conducted down, next morning; we arrived at St. Marks, on the 12th of February, at night; the Spanish officers received us kindly, but the commandant did not forget to remind us that we were still prisoners, and marked out that night the limits of our prison, he rigidly kept during the time of our stay. Next morning, the first thing that presented itself to my view, was my saddle-horse, which had been taken from me by the Indians; he was in the possession of the commissary. I mentioned it to the commandant, but he said that he bought him of an Indian, and he could do nothing in it. A few days after, in the course of conversation, I mentioned it to the Spanish doctor; he assured me that two-thirds of the property taken from us by the Indians, had been bought by them and others in the fort. The plundered property from Georgia was every day briskly bought by the commandant and others. I know one instance of an Indian making an engagement with the commandant for cattle that he was going then to plunder, and in 14 or 15 days brought them in and sold them. On our first arrival at St. Marks, we had, by help of a friendly Indian, conveyed intelligence to our friends in Pensacola of our situation; and they sent us on a small vessel to effect our escape; at her arrival, the commandant said to us that he had no objection to our getting out of the power of the Indians but that he should first demand a written obligation that we should never return to that country, nor hold no communication, direct or indirectly, with the U. S. government, or any of her officers; this being settled, we left St. Marks, on the night of the 28th March, and joined captain M'Keever in his gun-boats, in the bay of Apalachicola; on the 30th returned with him to St. Marks, where we found general Jackson, on the 6th of April. Given under my hand the 24th July.

[Signed]

WILLIAM HAMBLY.

No. 46. a.

*W. Hambly and E. Doyle to General Jackson.**Fort Gadsden, 2d May, 1818.*

SIR,

We beg leave to submit to you the following facts:

On the 13th December, 1817, we were violently torn from our settlement, on the Apalachicola river, by a number of Indians, headed by Chenubby, a chief of the Fowl Town tribe, carried to Mickasuky, and delivered to Kenagee, King of the Mecasukians. Kenagee carried us to the Negro Towns, on the Sewaney, and thence to the Spanish fort St. Marks, to the commandant of which, he delivered us as prisoners of war, captured under the orders of a Mr. Arbuthnott, reported to us a British agent. At St. Marks, we were treated as prisoners, and not permitted to wander beyond the walls of the garrison. While at that post, the ingress and egress of Indians, hostile to the United States, was unrestrained, and several councils were held, at one of which, Kenagee, king of the *Mickasukians*, *Francis or Hillis Hajo*, Hamathlemico, the chief of the *Autesses*, and the chief of *Kolemies*, all of the old Red Stick party, and Jack Mealy, chief of the *Ochewas*, were present; when it was reported, that these chiefs and their warriors, were entering fort St. Marks, for the purpose of holding a council, Hambly represented to the commandant, the impropriety of permitting such proceedings within the walls of a Spanish fortress, the officer of which was bound to preserve, and enforce the treaties existing between the king of Spain and the United States; he replied to Hambly with some degree of warmth, observing that it was not in his power to prevent it. On the Indians coming into the fort, at their request, we were confined. The council was held in the commandant's quarters. He, the commandant, was present; but strictly forbade the intrusion of any of the officers of the garrison. The Indians were in the habit of driving to fort St. Marks, and disposing of cattle to the commandant and other Spanish officers. While at that post, three or four droves were brought in, acknowledged by the Indians, to have been stolen from the citizens of the United States, and purchased by the Spanish officers. We were present at most of these contracts, and Hambly often referred to, as an interpreter between the purchaser and seller. Chenubby, a Fowl Town Indian, once applied to Hambly to mention to the commandant, that he was about visiting the frontiers of Georgia, on a plundering expedition, and wished to know whether he would purchase the cattle brought in. A contract was entered into, and Chenubby, some time after, brought in, and disposed of eleven head of cattle, to the Spanish commandant of fort St. Marks. These same cattle were those purchased by you, from the commandant, as his private property.

(Signed)

WILLIAM HAMBLY,  
EDWARD DOYLE.



No. 46. b.

*J. Gadsden to General Jackson.**Fort Gadsden, May 3d, 1818.*

SIR,

In conversation with the commandant of fort St. Marks, on the subject of having that work occupied by an American garrison, I had occasion to notice the aid and comfort, that the hostile party of Indians had received, as reported from him. That they had free access within the walls of his fort, and that it was well known, no small supplies of ammunition had been received from that quarter. In reply, he stated that his conduct had been governed by policy; the defenceless state of his work, and the weakness of his garrison, compelled him to conciliate the friendship of the Indians, to supply their wants, to grant what he had not the power to deny, and to throw open with apparent willingness, the gates of his fortress, lest they should be forced by violence; that he had been repeatedly threatened by Indians and negroes, and that his security depended upon exhibiting an external friendship. After fort St. Marks was occupied by the American troops, a black man and Spanish soldier, was reported to me, as having been arrested, clad in American uniform, recognized as part of the clothing of the 4th and 7th regiments, captured in the boat commanded by lieutenant Scott, in ascending the Apalachicola river.

In explanation the Spanish commandant observed, that his soldiers, and the Seminole Indians, were in the habit of trading with each other, and that this negro, with others of his garrison, had received his permission to purchase some clothing, reported to have been brought in by the Indians.

Respectfully your obedient servant,

(Signed)

JAMES GADSDEN,

*Aid-de-camp.**Major General A. Jackson,**Commanding Southern Division U. S. Army.*


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 No. 46. c.
*Major Twiggs to General Jackson.**Fort Gadsden, 3d May, 1818.*

SIR,

After the occupancy of Fort St. Marks with American troops, on the 7th April last, it became my duty to take charge of some goods found in one of the public stores.



No. 46. e,

*A. F. Fraser and D. F. Sullivan to General Jackson.*

We, the undersigned, officers and men of the Georgia militia, in the service of the United States, do hereby certify, that we were at fort St. Marks, East Florida, at the time of its capture by major general Andrew Jackson, on the 7th April, 1818, and saw some cattle that were purchased on account of the United States, from the Spanish authorities, which we were ready to swear to, as the property of our friends and neighbors in Georgia.

Given under our hands at Fort Gadsden, this 3d May, 1818.

[Signed]

ANDREW F. FRASER, *Captain.*  
DANIEL F. SULLIVAN, *G. M. S.*

No. 47. a.

*A. Arbuthnott to Lieut. Col. Nicholls.**Nassau, N. P. August 26th, 1817.*

SIR,

I am especially authorized to address you, by the chiefs of the Creek nation, whose names I affix to the present.

They desire it to be made known, that they have implicitly followed our advice, in living friendly with the Americans, who were their neighbors, and nowise attempted to molest them, though they have seen the Americans encroach on their territory, burning their towns, and making fields where their houses stood; rather than make resistance, they have retired lower on the peninsula. The town of Ecan Halloway, on the Chattahouche, where Otos Mico was chief, is the instance of the encroachments of the Americans. This town is situated under the guns of fort Gaines, and Mico was desired to submit to the Americans, or his town would be blown to atoms; rather than do this, he retired, is now living in the lower nation, and his fields, where the town stood, are ploughed up by the Americans.

They complain of the English government neglecting them, after having drawn them into a war with America; that the promise made them of sending people to reside among them, has not been kept; and if they have not some person or persons to reside in the nation, to watch over their interests, they will soon be driven to the extremity of the peninsula. You left Mr. Hambly, to watch over the interests of the Creek nation, but you had hardly left the nation, when he turned traitor, and was led by Forbes to take the part of the Americans: his letter [No. 47. *b.*] to me, of which I annex you a copy, will show you what lengths he would go, if he had the means. It is Hambly and Doyle, who gave the Indians all the trouble they experience; they send their emissaries among the Lower Creeks, and make them believe the Coubittes, aided by the Americans, are coming down on them; they send to the Coubittes, and report the Lower nation is arming against them; thus, both are put in fear, and their fields are neglected, and hunting is not thought of. I have endeavored to do away this fear, by writing to the chiefs of Coubitta town, that they ought to live on friendly terms with their brethren of the lower nation, whose wish it was to be on good terms with them, and not to listen to any bad talks, but to chase those that give them from among them. My letter was answered by them rather favorably; and I hope the talk that was sent to the Big Warrior, last June, will heal the differences between them.

Hidlis Adjo, arrived in my schooner at Okabokue sound, last June, and was well received by all the chiefs, and others, who came to welcome him home. In consequence of his arrival, a talk was held, the substance of which I put on paper for them, and it was sent, with a pipe of peace, to the other nations.

Hidlis Adjo, wished to return to Nassau with me, but I prevailed on him to stay with the nation, and keep them all at peace.

I am desired to return Hidlis Adjo's warmest acknowledgment for the very handsome manner in which you treated him in England, and he begs his prayers may be laid at the foot of his royal highness the prince regent. I left him, and all his family well, on the 20th of June.

Old Cappachimico, desired me to send you his best respects, and requests you will send him out some people to live among them, and all the land they took from Forbes shall be theirs; at all events, they must have an agent among them, to see that the Americans adhere to the treaty, and permit them to live unmolested on their own land. This agent should be authorized by his majesty's government, or he will not be attended to by the Americans.

In the Gazette of Georgia, the Americans report the Seminole Indians are continually committing murders on their borders, and making incursions into the state. These are publications tending to irritate the American government against the poor Indians; for, during the time I was in the nation, there was only one American killed; and he, with two others, was in the act of driving off cattle belonging to Boleck, chief of Sahawee; whereas, three men and a boy were

killed last June, by a party of cattle-stealers, while in their hunting camps; the boy they scalped; and one of Boleck's head men was killed on St. John's river, in July. The backwoods Georgians, and those resident on the borders of the Indian nation, are continually entering it, and driving off cattle. They have, in some instances, made settlements, and particularly on the Choctohache river, where a considerable number have descended.

By the treaty with Great Britain, the Americans were to give up to the Indians all the lands that may have been taken during the war, and place them on the same footing they were in 1811. It appears that they have not done so; that Fort Gaines, on the Chatahouchy river, and camp Crawford, on the Flint river, are both on Indian territory, that was not in possession of the Americans in 1811.

They are fearful, that, before any aid is given them by the English government, they will no longer be in possession of any territory. *I wrote last January to his excellency the Hon. Charles Bagot, representing the encroachments of the Americans, (as I was informed by the copy of a letter from the right Hon. Earl Bathurst, handed me by his excellency governor Cameron, that his majesty's ambnssadors had received orders to watch over the interests of the Indians.)* Since my return here I have received from Mr. Moodie, of Charleston, an extract of a letter from the honorable Charles Bagot, that the expense of postage is so considerable, any further communications of the same nature, must be sent him by private hands; now, Sir, as no person goes direct from this to Washington, how am I to be able to comply with this desire? Thus he will be kept ignorant of the real situation of the poor Indians, and the encroachments made on their lands by American settlers, while we may be told by the American government, that no encroachments have been made, and that the forts they still hold, are necessary, to cheek the unruly Seminoles; thus, the persons appointed to watch over the poor Indians, have no other means of information, than from the parties interested in their destruction, and from seeing from time to time, in the American states, accounts of cruel murders, &c. committed by the Indians on the frontier settlers of the United States, he apprehends the Indians merit all the Americans do to them. But let his majesty's government appoint an agent with full powers; and to correspond with his majesty's ambassador, at Washington, and his eyes will then be open, as to the motives that influence American individuals, as well as the government, in vilifying the Indians.

The powers given me, and the instructions, were to memorial his majesty's government as well as the governor general of Havana; and I fear that a memorial to the governor general would be of no use. Referring you to the enclosed, [No. 47. b.]

I remain most respectfully,

Your obedient servant,

[Signed]

A. ARBUTHNOTT.

To Lieut. Col. Nicholls.

No. 47. b.

*W. Hambly to A. Arbuthnott.**Extract of a letter, signed W. Hambly, received at Okolokue Sound, dated  
May, 1817.*

SIR,

I am desired by the chiefs of the nation to request you will extricate yourself from among a band of outlaws, among whom you now are, for the arm of justice is lifted up against them, and it will, ere long, fall heavy upon them, you, and your property. They say they would have no objection to your settling any way, the west of Apalachicola river; but where you now are, you are among a set of outlaws; they have lately committed twenty most cruel murders on women and children, on the frontiers of the United States, and stolen 100 horses, and they say it is by your desire.

[Signed]

W. HAMBLY.

*Spanish Bluff, May 10th, 1817.*


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 No. 47. c.
*Signatures of the Chiefs of the Creek nation, to a power given to A.  
Arbuthnott, dated the 17th June, 1817.*

Cappachimico,  
Inhimathlo,  
Charle Tustunaky,  
Otos Mico,  
Ochacona Tustonaky,  
Imathluche,

Inhimathluchy,  
Lahoe Himathlo,  
Homathle Micho,  
Talmuches Hatcho,  
Hillisajo,  
Opoithlimico.

Interpreter,

PETER SHUGERT.

Approved of by

F. C. LUENGO,  
*Commandant of St. Marks.*

No. 48.

*Luengo to Arbuthnott.**Appalachia, 25th December, 1817.**Monsieur et Amy,*

Les affaires entre les sauvages et les Americains et ant devenu de quelque consequence, et ne doutant que l'ovage viendra fraper par icy, je cregne pour vos petites objets; en consequence, je croi il est de votre intere de ne pas diferer un moment les retirer d'icy. Se serai content de vous voir tant pour avoir le plaisir de vous embrasser, comme pour causer un peu sur les affaires politiques du jour, qu'il ne convienne dans les actueles circumstanes les confie a la plumme, et en attendant cette satisfaction.

Suis avec ma petite famille,

Monsieur, votre tres affect'te serv. et amy,

FRANC'O CASO Y LUENGO.

*Monsieur A. Arbourknott,**Neg't, Sawanna.*

(Translated copy.)

*Appalachicola, 25th December, 1817.**Sir and Friend,*

Affairs having assumed a serious aspect between the savages and the Americans, and not doubting that the storm will pass this way, I entertain apprehensions for the safety of your little objects, and believe it to be your interest, not to lose a moment in removing them from hence.

I shall be happy to see you, that I may have the pleasure of embracing you, and an opportunity of conversing with you on the politics of the day, which, under existing circumstances, it is improper to commit to paper. In the expectation of this pleasure, I am, with my little family,

Sir, your very affectionate servant and friend,

[Signed] FRANC'O CASO Y LUENGO.

No. 49.

*Minutes of the proceedings of a special court, organized agreeably to the following order, viz:*

*Head Quarters, Division of the South,  
Adjt. gen's. office, fort St. Marks,*

*April 26, 1818.*

### GENERAL ORDER.

The following detail will compose a special court, to convene at this post, at the hour of twelve, M. for the purpose of investigating the charges exhibited against A. Arbuthnott, Robert Christy Armbrister, and such others, who are similarly situated, as may be brought before it.

The court will record all the documents and testimony in the several cases, and their opinion as to the guilt or innocence of the prisoners, and what punishment (if any) should be inflicted.

### DETAIL.

Major general E. P. GAINES, *President.*

#### *Members.*

Colonel King, 4th infantry,  
Colonel Williamson, Tennessee volunteers,  
Lieut. Col. Gibson, Tennessee volunteers,  
Major Muhlenberg, 4th infantry,  
Major Montgomery, 7th infantry,  
Captain Vashon, 7th infantry,  
Colonel Dyer, Tennessee volunteers,  
Lieut. Col. Lindsay, corps artillery,  
Lieut. Col. Elliott, Tennessee volunteers,  
Major Fanning, corps artillery,  
Major Minton, Georgia militia,  
Captain Crittenden, Kentucky volunteers.

Lieutenant J. M. Glassel, 4th infantry, *Recorder.*

An orderly will be detailed from Gen. Gaines' brigade, and the court will sit without regard to hours.

By order of major general Jackson,

(Signed)

ROBERT BUTLER,

*Adjutant General.*



*Fort St. Marks, April 26. 1818.*

The court convened, pursuant to the foregoing order, when, being duly sworn in the presence of the prisoner, and he being asked if he had any objections to any member thereof, and replying in the negative, the following charges and specifications were read, viz:

Charges *vs.* A. Arbuthnott, now in custody, and who says he is a British subject.

Charge 1. Exciting and stirring up the Creek Indians to war against the United States and her citizens, he, A. Arbuthnott, being a subject of Great Britain, with whom the United States are at peace.

Specification. That the said A. Arbuthnott, between the months of May and July, or some time in June, 1817, wrote a letter to the Little Prince, exhorting and advising him not to comply with the treaty of fort Jackson, stating, that the citizens of the United States were infringing on the treaty of Ghent, as he believed, without the knowledge of the chief magistrate of the United States, and advising the Upper and Lower Creeks to unite and be friendly, stating, that William Hambly was the cause of their disputes; also, advising the Little Prince, to write to the Governor of New Providence, who would write to his royal highness, the Prince Regent, through whom the United States would be called to a compliance with the treaty of Ghent, and advising them not to give up their lands, under the treaty of Fort Jackson, for that the American citizens would be compelled to give up to them, all their lands, under the treaty of Ghent.

Charge 2. Acting as a spy, and aiding, abetting, and comforting the enemy, supplying them with the means of war.

Specification 1. In writing a letter from St. Marks, fort, dated April 2, 1818, to his son, John, at Suwany, (marked A) detailing the advance of the army, under general Jackson, stating their force, probable movements and intentions, to be communicated to Bowlegs, the chief of the Suwany towns, for his government.

Specification 2. In writing the letters, (marked B) without date; and (C) with enclosures, January 27, 1818; and (D) called "a note of Indian talks;" and (E) without date, applying to the British government, through governor Cameron, for munitions of war and assistance for our enemies; making false representations, and also, applying to Mr. Bagot, British ambassador, for his interference, with a statement on the back of one of the letters, of munitions of war, for the enemy.

Charge 3. Exciting the Indians to murder and destroy William Hambly and Edmund Doyle, and causing their arrest, with a view to their condemnation to death, and the seizure of their property, on account of their active and zealous exertions to maintain peace between Spain, the United States, and Indians, they being citizens of the Spanish government.

Specification 1. In writing the letters (marked F) dated August 26, 1817; (G) dated May 13, 1817; and (H) threatening them with death, alleging against them false and infamous charges, and using every means in his power to procure their arrest, all which writings and sayings, excited, and had a tendency to excite, the Indians and negroes to acts of hostility with the United States.

By order of the court.

J. M. GLASSELL,

*Recorder.*

To which charges and specifications, the prisoner pleaded *not guilty*.

The prisoner having made application for counsel, it was granted him, when the court proceeded to the examination of the evidence.

John Winslett, a witness on the part of the prosecution, being duly sworn, stated, that some time before last July, the Little Prince received a letter, signed by a Mr. Arbuthnot, advising the upper part of the nation to unite with the lower chiefs in amity, and stating that the best mode for them to repossess themselves of their lands, would be, to write to him, (Arbuthnot) and he would send on their complaints to the governor of Providence, whence it would be forwarded to his Britannic majesty, and he would have the terms of the treaty of Ghent attended to; he moreover, stated his belief that the encroachments on the Indian lands, were unknown to the President of the United States. The witness also identified the signature of the letter of the prisoner to his son, (marked A) referred to in the first specification to the second charge, and heretofore noted as being the same with that sent to the Little Prince.

The witness, on being further interrogated, stated the language of the letter alluded to, to be, that the British government, on application, would cause to be restored to them their lands they held in 1811, agreeably to the terms of the treaty of Ghent.

Question by the Prisoner. Who is the Little Prince, or is he known by any other name?

Answer. He is known by the name of Tustenukee Hopoie, and is the second chief of the nation.

Question by the Prisoner. Where is the letter you allude to, or in whose possession?

Answer. It was left in the possession of the little prince, when I last saw it.

Question by the Prisoner. Has this Little Prince no other name than what you state?

Answer. Not that I know of.

Question by the Prisoner. Do you swear that the letter alluded to was addressed to the Little Prince?

Answer. I do not. It was presented me by the Little Prince to read and interpret for him, which I did.

**Question by the Prisoner.** Are you certain that the letter stated that the chief magistrate of the United States could have had no knowledge of settlements made on Indian lands, or injuries committed?

**Answer.** The letter stated that to be the belief of the writer.

John Lewis Phenix, a witness on the part of the prosecution, being duly sworn, stated, with regard to the 1st specification of the 2d charge, that being at Suwany, in the town, about the 6th or 7th of April, he was awakened early in the morning by Mr. Armbrister's receiving, by the hands of a negro, who got it from an Indian, a letter from St. Marks, at that time stated by Armbrister to be from the prisoner.

**Question by the Prisoner.** Did you see that letter, or hear it read?

**Answer.** I did see the paper, but did not hear it read.

**Question by the Prisoner.** Did you state that the letter was received by an Indian express?

**Answer.** So the black man that delivered it said.

A question being raised by a member of the court as to their jurisdiction on the 3d charge and its specification, the doors were closed, and after mature deliberation, they decided that this court are incompetent to take cognizance of the offences alleged in that charge and specification.

Peter B. Cook, a former clerk to the prisoner, and a witness on the part of the prosecution, being duly sworn, stated, that about December or January last, the prisoner had a large quantity of powder and lead brought to Suwany in his vessel, which he sold to the Indians and negroes; that subsequent to that time, which he cannot recollect, Armbrister brought for the prisoner in his (the prisoner's) vessel, nine kegs of powder, and a large quantity of lead, which was taken possession of by the negroes. The witness also identified the letters referred to in the foregoing charges and specifications marked A. B. C. D. E. F. G. and H., also, the power of attorney, No. 1, granted by the Indians to A. Arbuthnott, being the prisoner's handwriting.

**Question by the court.** Have you at any time within the last twelve months, heard any conversation between the prisoner and the chief called Bolegs, relating to the war between the United States and the Seminoles?

**Answer.** I heard the prisoner tell Bolegs, that he had sent letters to the prince regent, and expected soon to have an answer.— Some time afterwards, some of the negroes doubted his carrying those letters, when the prisoner stated that he had, but the distance being great, it would take some time to receive an answer.

**By the court.** State to the court, when, and where, you first saw the letter signed A. Arbuthnott, dated April 2, 1818, referred to in the first specification, and the second charge?

**Answer.** About the 6th of April, a black man who said he had

received it from an Indian, gave it to Mr. Armbrister, whom I saw reading it.

Question by the court. Do you know by what means that letter was conveyed to Suwany?

Answer. I understood by an Indian, who was sent from fort St. Marks.

Question by the court. Who paid the Indian for carrying the letter, referred to in the last interrogatory?

Answer. I do not know.

Question by the court. What steps were taken by the negroes and Indians, on the receipt of the letter?

Answer. They at first believed the bearer an enemy, and confined him, but learning the contrary began to prepare for the enemy, and the removal of their families and effects across the river; the Indians lived on the opposite side.

Question by the court. Did the Indians and negroes act together in the performance of military duty?

Answer. No. But they always said they would fight together.

Question by the court. Did not Nero command the blacks, and did not Bowlegs crown Nero, and was not the latter under the immediate command of Bowlegs?

Answer. Nero commanded the blacks, and was owned and commanded by Bowlegs; but there were some negro captains who obeyed none but Nero.

Question by the court. What vessel brought to Suwany the ammunition, which you said was sold by the prisoner to the Indians and negroes?

Answer. The schooner Chance, now lying at the wharf; she is a fore-topsail vessel, belonging to the prisoner.

The witness also identified the manuscript of the prisoner, in a paper granting him full power to act in all cases for the Indians, numbered 1; and also a letter without signature, to the governor of St. Augustine, numbered 2; further, a letter without date to Mr. Mitchell, Indian agent, numbered 3; and an unsigned petition of the chiefs of the Lower Creek nation, to governor Cameron, praying his aid in men and munitions of war, numbered 4—all of which the witness stated to be in the hand writing of the prisoner.

The court then adjourned, to meet to-morrow morning, at seven o'clock.

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*Fort St. Marks, 27th April, 1818.*

The court convened pursuant to adjournment. Present,

*Major General E. P. GAINES, President.*

*Members.*

Col. King,  
Col. Williamson,

Lt. Col. Gibson,  
Major Muhlenberg,

Major Montgomery,  
 Capt. Vashon,  
 Col. Dyer,  
 Lieut. Col. Lindsay,

Lieut. Col. Elliott,  
 Major Fanning,  
 Major Minton,  
 Captain Crittenden.

*Lieutenant J. M. GLASSELL, Recorder.*

When the further examination of the witness, Cook, took place, viz:

Question by the prisoner. How long have you been acquainted with the settlement on the Sahwahnee?

Answer. Between six and seven months.

Question by the prisoner. For what term of years did you engage to live with the prisoner?

Answer. For no stated period; I was taken by the year.

Question. Were you not discharged by the prisoner, from his employ?

Answer. He told me he had no further for me, after I had written the letters to Providence.

Question. Where did you stay after you were discharged?

Answer. I staid in a small house belonging to a boy, called St. John, under the protection of Nero.

Question. What was the subject matter of the letters you wrote to Providence?

Answer. After being refused by the prisoner a small venture to Providence, I wrote to my friends for the means to trade by myself.

Question. Do you believe the prisoner had knowledge of the venture being on board the schooner?

Answer. I do not believe he did; it was small, and in my trunk.

Question. Do you know that Armbrister was the agent of the prisoner?

Answer. I do not.

Question. Do you think that the powder and lead shipped, would more than supply the Indians and negro hunters?

Answer. I did not see the powder and lead myself, but was told by Bowlegs that he had a great quantity; he had three kegs, keeping to fight with.

Question. Did the Indians reside on the east side of the river?

Answer. They did.

Question. You were asked of the negroes and Indians, when the letter marked A was communicated, if they did not take up arms; had they received information of the defeat of the Indians at Mickasuky, prior to this date?

Answer. It was afterwards, I believe, that they received the information.

Question. Did not Bowlegs keep other powder than that got from the prisoner?

Answer. He had some he got from the Bluff, which was nearly done; he said his hunters were always bothering him about powder.

**Question.** Did you state that, at the time Armbrister ascended the river, there was no other vessel at the mouth of the river?

**Answer.** There was none other there; there was one had sailed.

**Question.** There is a letter A, spoken of, how do you know that the son of the prisoner had that letter in his possession?

**Answer.** I saw him with it, which he dropped; and a boy called John, picked up and gave it to me.

**Question.** You stated that the Indians and negroes doubted the fidelity of the prisoner, in sending letters to the prince regent; do you think that the prisoner would have been punished by them, had he not complied with their wishes?

**Answer.** I do not know.

**Question.** Do you believe that the prisoner was compelled to write the Indian communications?

**Answer.** He was not compelled.

William Hambly, a witness on the part of the prosecution, being duly sworn, and commencing a statement of what he heard the chiefs say, and the prisoner objecting to hearsay evidence of that kind, the court was cleared, in order to take the question; when it was decided, that the prisoner's objection was not valid. The witness was therefore re-called, and stated, that fifteen or twenty days after the prisoner's arrival at Ochlochnee, the Seminole Indians began to steal horses from the United States' settlements, and commit murders on the Satilla river, which he was informed by them, was at the instigation of the prisoner.

The chiefs of the little villages, in the witness's neighborhood, then desired him to write a few lines to the prisoner, stating those reports, and that he did not know that those Indians he was exciting, had long been outlawed, and caution him against such proceedings, or he might be involved in their ruin; this the witness did, when the prisoner wrote him a long and insulting letter, which was lost; upbraiding the witness, for calling those Indians outlaws, and accusing him of exciting the Indians to civil war. The witness was told by all chiefs and Indians, who had seen the prisoner, that he advised them to go to war with the United States, if they did not surrender them the lands which had been taken from them, and that the British government would support them in it.

The Indians that took the witness, and a Mr. Doyle, prisoners, which happened on the 13th December last, told them it was by the prisoner's order; and on their arrival at Mickasuky, (as prisoners) Kenhagee, and all his chiefs, told them, it was by the prisoner's orders they were taken and robbed. On their arrival at Suwany, they were told by the Indian and negro chiefs, who set in council over them, that the prisoner had advised he should be given up to five or six Choctaw Indians, who were saved from the negro fort, who would revenge themselves for the loss of their friends at that place. On their return from Suwany, the chief Kenhagee, told them, that he had got the prisoner to write several letters for

him; one to the governor of Providence; one to the British minister at Washington; one to the secretary of state in London; and one to the American agent for Indian affairs, protesting against the proceeding of the commanding officer at fort Scott. While the witness was at Suwany, the Indian chiefs told him that the prisoner had arrived at that place, with ten kegs of powder on board of his vessel, and while in fort St. Marks, sometime in March, Hillishajo, or Francis, brought an order from the prisoner to the commandant, for two kegs of powder, with other articles, which were in his possession.

Question by the court. Were any murders or depredations committed on the white settlement by the Indians, previous to the prisoners arrival at Ocklochnee?

Answer. None except one murder near fort Gaines, which was before or about the time of the prisoner's arrival.

Question. How long have you resided among the Indians; state to the court whether you are acquainted with the Indian language, and how long since you learned it?

Answer. I have resided among them 14 years, and have understood their language 12 years.

Question. Do you believe the Seminoles would have commenced the business of murder and depredation on the white settlements, had it not been at the instigation of the prisoner, and a promise on his part of British protection?

Answer. I do not believe they would, without they had been assured of British protection.

Question by the court. What was the light in which the prisoner was viewed by the hostile Seminoles? Was it that of an authorized agent of the British government?

Answer. The different chiefs always represented him to me as such.

The witness recognized the letter marked G, and signed A. Arbuthnott, as being a copy of the one alluded to in his testimony, as lost.

Question by the President. Are you acquainted with the prisoner's hand writing?

Answer. I have seen it, but cannot say I am acquainted with it.

Question. Is that which you have just seen, and say is the copy of the one you lost, the prisoner's hand writing?

Answer. It looks to be his hand writing; but I cannot say positively.

Question. Was the prisoner considered as the agent of the Seminoles, at the time those murders were committed?

Answer. I had not seen the prisoner at that time; the Indian chiefs told me that the prisoner had reported himself to them as an English agent.

Question. Where did you understand the prisoner to be, when you were taken prisoner?

Answer. The Indians told us that he had gone over to Provi-

dence, but was expected back by the time we should arrive at Suwany.

Question. Did you not request Kenhagee, to prevail upon the prisoner to give you a passage in his schooner to Providence?

Answer. Yes; but was told that the prisoner refused it, stating that if we were forced upon him, he would blindfold us and make us walk overboard.

Question. What were the reasons given by Kenhagee, for the prisoner's not granting your request?

Answer. Kenhagee stated that the prisoner was fearful of meeting with an American vessel, when we should be taken out and he thereby lose his schooner.

Edmund Doyle, a witness on the part of the prosecution, being duly sworn, was questioned as follows:

Question by the Judge Advocate. Do you know any thing that would tend to substantiate the charges against the prisoner now before you?

Answer. I know nothing but from common report.

William S. Fulton, an evidence on the part of the prosecution, being duly sworn, testified the copy of a letter from A. Arbuthnott, to general Mitchell, agent for Indian affairs, dated Suwany, 19th January, 1818, and marked No. 6, as acknowledged by the prisoner, to be the same in substance, as one written by himself at that time; an extract from that letter was then read to the court.

Question by the President. Where did the prisoner acknowledge the letter just read, to be a copy of the one written by himself?

Answer. In the encampment before this place, about the 6th or 7th instant.

Question. Was not the acknowledgment made when he was a prisoner?

Answer. It was.

Question by the President. Did you hear a gentleman say to the prisoner, whilst in custody, that those who recommended the scalping knife and tomahawk, should feel their keenest edge?

Answer. I did hear a gentleman say, that those who excited the Indians to the murder of the unoffending, should feel the keenest edge of the scalping knife; but as well as I recollect, that observation was not made until after the repeated acknowledgments of the prisoner, of having written the letter.

Question by the court. Was not the confession of the prisoner to this letter made voluntarily and without any constraint whatever?

Answer. I conceive it was.

The evidence on the part of the prosecution being closed, the prisoner requested as a witness, Robert C. Armbrister, as one of his witnesses, against whom criminal charges had been filed, and who was in custody on account thereof; to which the judge advocate objecting, the court was cleared to take its sense—when it was decided



that Robert C. Armbrister, now in custody for similar offences with the prisoner, cannot be examined as evidence before the court.

John Lewis Phenix, a previous witness, now on the part of the prisoner, being again sworn, was questioned as follows, viz:

Question by the Prisoner. Was there any other vessel at the mouth of the Suwáhnee river, when Armbrister seized your schooner?

Answer. Yes.

Question. What vessel was it? Was it not the vessel which Armbrister came in?

Answer. It was a sloop, and I understand Armbrister came in her.

Question. Did Armbrister ever mention to you, who recommended him to seize the prisoner's schooner, or who assisted him in stimulating the negroes to do so?

Answer. No. I understood he came on board of his own accord.

Question by the Court. Have you, since you commanded the prisoner's vessel, ever brought any arms to that part of the country?

Answer. No. I brought a quantity of lead and ten kegs of powder in the last trip.

John Winslett, a former witness on the part of the prosecution, being recalled on the behalf of the prisoner, was questioned as follows, viz:

Question by the Prisoner. Are you not of opinion that the letter which you say was written by the prisoner to the Little Prince, is now in the possession of the Little Prince?

Answer. After reading it I returned it to him, and I believe it to be still in his possession, as Indians seldom destroy papers of that kind.

The prisoner requesting some time to make up his defence; he was given until to-morrow evening, at 4 o'clock.

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*Fort St. Marks, 28th of April, 1818, 4 o'clock, P. M.*

The recorder having read over the proceedings of the court with closed doors, the prisoner was recalled into court, and made the defence marked K, and attached to these proceedings. The doors were then closed, and after the most mature deliberation on the evidence adduced, the court find the prisoner, *Alexander Arbuthnott*, guilty of the first specification to the first charge, and guilty of the first charge;

guilty of the first and second specifications to the second charge, and guilty of the second charge, leaving out the words "acting as a spy." They therefore do, on the most mature reflection, sentence the prisoner, *Alexander Arbuthnott*, to be suspended by the neck, until he is dead, two-thirds of the court concurring therein.

(Signed)

EDMUND P. GAINES,

*Major General by Brevet,*

*President of the Court.*

(Signed)

J. M. GLASSEL,

*Recorder.*

A.

*From A. Arbuthnott to his son, John Arbuthnott.*

*Fort St. Marks, 2d April, 1818,*

*9 o'clock—Morning.*

DEAR JOHN,

As I am ill able to write a long letter, it is necessary to be brief: before my arrival here, the commandant had received an express from the governor of Pensacola, informing him of a large embarkation of troops, &c. under the immediate command of general Jackson, and the boat that brought the despatch, reckoned eighteen sail of vessels off Appalachicola. By a deserter that was brought here by the Indians, the commandant was informed that 3000 men, under the orders of gen. Jackson; 1000 foot and 1600 horse, under gen. Gaines; 500 under another general, were at Prospect Bluff, where they were rebuilding the burnt fort; that 1000 Indians of different nations, were at Spanish Bluff, building another fort, under the direction of American officers; that so soon as these forts were built, they intended to march. They have commenced. Yesterday morning advice was received that they had appeared near — and taken two of the sons of M'Queen, and an Indian; late in the afternoon, three schooners

came to anchor at the mouth of this river, and this morning the American flag is seen flying on the largest.

I am blockaded here, no Indians will come with me; and I am now suffering from the fatigue of coming here alone.

The main drift of the Americans is to destroy the black population of Sahwahnee. Tell my friend Boleck, that it is throwing away his people to attempt to resist such a powerful force as will be down on Sahwahnee, and as the troops advance by land, so will the vessels by sea. Endeavor to get all the goods over the river in a place of security, as also the skins of all sorts; the corn must be left to its fate. So soon as the Sahwahnee is destroyed, I expect the Americans will be satisfied and retire; this is only my opinion, but I think it is conformable to the demand made by general Gaines, of Kenhigee, some months since; in fact, do all you can, to save all you can; save the books particularly. It is probable the commandant will receive some communication from the vessels to-day, when he will know more certainly what are their motives in coming off the fort. I think it is only to shut up the passage to the Indians. Twenty canoes went down the river yesterday, and were forced to return. The road between this and Mickasuky is said to be stopped. Hillisajo and Himathlo Mico were here late last night, to hear what vessels. They will remove all their cattle and effects across St. Mark's river this morning, and perhaps wait near thereto for the event.

I have been as brief as I can, to give you the substance of what appears facts, that cannot be doubted; to enter into details in the present moment, is useless; if the schooner is returned, get all the goods on board of her and let her start off for Mannatee creek, in the bottom of Cedar Key bay. You will then only have the skins to hide away. But no delay must take place; as the vessels will no doubt follow the land army, and perhaps even now, some are gone round. I pray your strictest attention, for the more that is saved, will be eventually more to your interest. Let the bearer have as much calico, as will make him two shirts, for his trouble. He has promised to deliver this in three, but I give him four days.

I am yours, affectionately,

(Signed)

A. ARBUTHNOTT.

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B.

*From A. Arbuthnott, to Charles Cameron, Governor Bahamas.*

SIR,

Being empowered by the chiefs of the Lower Creek nation, to represent the state of their nation to your excellency, that you may be

pleased to forward the same for the information of his majesty's government, to whom alone they look up for protection, against the aggressions and encroachments of the Americans, I beg leave to submit to your excellency, the enclosed representations, humbly praying that your excellency will be pleased to take an early opportunity of forwarding the same to Great Britain.

I am also instructed by Bowleck, chief of Sahwahnee, to make the demand herein enclosed, he never having had any share of the presents distributed at Prospect Bluff, though he rendered equally essential services, as any of the other chiefs, to the British cause, while at war with America; and was at New Orleans with a part of his warriors. His frontiers being more exposed to the predatory incursions of the back Georgians, who enter his territory and drive off his cattle, he is obliged to have large parties out to watch their motions, and prevent their plundering; and being now deficient of ammunition, he prays your excellency will grant his small demand. Humbly submitting the same,

I have the honor to remain your excellency's

Most humble servant,

(Signed)

A. A.

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*The humble representations of the chiefs of the Creek nation.*

*To his Excellency Governor Cameron.*

First, we beg leave to represent, that Edmund Doyle and William Hambly, lately clerks at Prospect Bluff, to Messrs. Forbes, and who still reside on the Appalachicola river, we consider as the principal cause of our present troubles and uneasiness. Hambly was the instrumental cause of the fort at Prospect Bluff being destroyed by the Americans, by which we lost the supplies intended for our future wants; since then both these men have kept emissaries among us, tending to harrass and disturb our repose, and that of our brethren of the middle and upper nation; they spread among us reports that the Cowhettes, aided by the Americans, are descending to drive us off our land, they equally propagate false.

C.

*From A. Arbuthnott, to Benjamin Moodie, Esq. enclosing letters to Charles Baggott, Esq. British minister at Washington.*

*Sahwahnee, in the Creek Nation,  
27th January, 1818.*

SIR,

The enclosed, containing matter of serious moment, and demanding the immediate attention of his excellency the British ambassador, I trust he will, for this time, forgive the trifling expense of postage, which I have endeavored to prevent as much as possible, by comprising *much matter* in one sheet of paper. Should you, sir, be put to any trouble or expense by this *trouble* I give you, by being made acquainted with the same, I will instruct Bain Dunshee & Co. to order payment of the same.

I have the honor to be, sir,

Your most obedient humble servant,

(Signed) A. ARBUTHNOTT.

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*From A. Arbuthnott to the honorable Charles Bagot.*

SIR,

It is with pain I again obtrude myself upon your excellency's notice; but the pressing solicitations of the chiefs of the Creek nation, and the deplorable situation in which they are placed, by the wanton aggressions of the Americans, I trust your excellency will take as a sufficient apology for the present intrusion.

In August last, the head chief of the Seminole Indians, received a letter from general Gaines, of which I have taken the liberty of annexing your excellency the contents, as delivered me by the chief's head English interpreter, with Kenhigee's reply thereto.

This letter appears to have been intended to sound the disposition of the chief, and ascertain the force necessary to overrun the nation, for from then, until an actual attack was made on Fowltown, the same general, with general Jackson, seem to have been collecting troops, and settlers in various quarters.

If your excellency desire to have further information, respecting the situation of this country and its inhabitants, I can, from time to time, inform your excellency of such facts and circumstances, as are stated to me, by chiefs of known veracity, or which may come under my own observation; and your excellency's orders, addressed to me at New Providence, will either find me there, or be forwarded me to this country.

With great respect, I have the honor to be,

Your excellency's most obedient servant,

(Signed)

A. A.

[The following memorandum was on the back of the foregoing letter:]

Kenhigee 1000, Boleck 1500 Oso Hatjo Choctawhatchy 500, Himashy Mico Chattehouchy 500, at present with Hillisajo—At present under arms 1000 and more—and attacking those Americans who have made inroads into their territory.

A quantity of gunpowder, lead, muskets and flints, sufficient to arm one thousand to two thousand men.

Muskets 1000, more smaller pieces, if possible.

10,000 flints, a proportion for rifle put up separate.

50 casks gunpowder, a proportion for rifle.

2,000 knives, six to nine inch blade, good quality.

1,000 tomahawks—100 lbs. vermilion.

2,000 lbs. lead, independent of ball for musket.

(Signed)

KENHIGEE.  
BOLECK.

*From General Gaines to the Seminoly Chiefs,*

*To the Seminoly Chiefs.*

Your Seminoly's are very bad people; I don't say whom; you have murdered many of my people, and stolen many cattle, and many

good houses that cost me money, you have burnt for me; and now that you see my writing, you will think I have spoken right. I know it is so, you know it is so, for now you may say I will not go upon you at random; but just give me the murderers, and I will show them my law, and when that is finished and passed, if you will come about any of my people, you will see your friends, and if you see me, you will see your friend. But there is something out in the sea, a bird with a forked tongue, whip him back before he lands, for he will be the ruin of you yet; perhaps you do not know who or what I mean—I mean the name of Englishman.

I tell you this, that if you do not give me up the murderers who have murdered my people, I say I have got good strong warriors, with scalping knives and tomahawks. You harbor a great many of my black people among you, at Suwahnee. If you give me leave to go by you, against them, I shall not hurt any thing belonging to you.

(Signed)

GENERAL GAINES.



*From Kenhigee to General Gaines, in answer to the foregoing.*

*To General Gaines,*

You charge me with killing your people, stealing your cattle, and burning your houses. It is I that have cause to complain of the Americans. While one American has been justly killed, while in the act of stealing cattle, more than four Indians have been murdered while hunting, by those lawless freebooters. I harbor no negroes. When the Englishmen were at war with America, some took shelter among them, and it is for you white people to settle those things among yourselves, and not to trouble us with what we know nothing about. I shall use force to stop any armed Americans from passing my towns or on my lands.

(Signed)

KENHIGEE.



D.

*“ Note of Indian talks.”*

In August, Capp had a letter from general Gaines, in substance as annexed, No. 1; and returned the answer as by No. 2. Nothing further was said on either side. The end of October, a party of

Americans from a fort on Flint river, surrounded Fowl Town, during the night, and began burning it; the Indians then in it, fled to the swamp, and in their flight had three persons killed by fire from the Americans; they rallied their people and forced the Americans to retire some distance, but not before they had two more persons killed. The Americans built a blockhouse, or fort, where they had fallen back to, and immediately sent to the forts up the country for assistance, stating the Indians were the aggressors. One of those letters falling into the hands of general Mitchell, he made inquiry, and found his people were the aggressors, and also settled with Inhemathlo for the loss his people had suffered; at the same time, sending a talk to Kenhigee, by a head man, Opony, that he would put things in such a train as to prevent further encroachments, and get those Americans to leave the forts. But no sooner was this good talk given, and before the bearer of it returned home, than hundreds of Americans came pouring down on the Indians. Roused to a sense of their own danger, they flew to arms, and have been compelled to support them ever since. It is not alone from the country, but by vessels entering Appalachicola river; troops, and settlers are pouring into the Indian territory, and if permitted to continue, will soon overrun the whole of the Indian lands.

From the talk sent Kenhigee, by Gen. Mitchell, I am in hopes that those aggressions of the Americans on the Indian territory, are not countenanced by the American government, but originate with men devoid of principle, who set laws and instructions at defiance, and stick at no cruelty and oppressions to obtain their ends. Against such oppressors the American government must use not only all their influence, but if necessary, force, or their names must be handed down to posterity, as a nation more cruel and savage to the unfortunate aborigines of this country, than ever were the Spaniards, in more dark ages, to the natives of South America.

The English government, as the special protectors of the Indian nations, and on whom alone they rely for assistance, ought to step forward and save those unfortunate people from ruin; and as you, Sir, are appointed to watch over those interests, it is my duty as an Englishman, and the only one in this part of the Indian nation, to instruct you of the talks the chiefs bring me for your information, and I sincerely trust, Sir, you will use the powers you are vested with for the service and protection of those unfortunate people who look up to you as their saviour. I have written general Mitchell, who I learn is an excellent man, and as he acts as Indian agent, I hope his influence will stop the torrent of innovators and give peace and quietness to the Creek nation.

I pray your excellency will pardon this intrusion, which nothing but the urgency of the case would have induced me to make.

I have the honor to be,

Your Excellency's most obedient serv't.

[Signed]

A. A.



## E.

*From Chappichimicco and Bowleek, to Governor Cameron.*

*To his Excellency Governor Cameron,*

It is with pain we are again obliged to obtrude ourselves on your excellency's notice, in consequence of the cruel war we have been forced into, by the irruption of the Americans, into the heart of our lands. It will be first necessary to state to your excellency, that one head chief, Kinghijah, received a letter from general Gaines in August last, a copy of what is enclosed, with the answer returned thereto. This letter only appears to have been a prelude to plans, determined on by the said general and general Jackson; to bring on troops and settlers to drive us from our lands, and take possession of them; for in the end of October, a party of Americans surrounded Fowl Town during the night, and in the morning began setting fire to it; making the unfortunate inhabitants fly to the swamp, and who in their flight, had three persons killed by the fire of the Americans. Our Indians rallying, drove the Americans from the town, but in their exertions, had two more of their people killed. The Americans retired some distance, and built a fort or block house to protect themselves, until the assistance they had sent for to the forts, up the country, should arrive. A letter falling into the hands of general Mitchell, the Indian agent, which stated the Indians to have been the aggressors; he suspected its truth, and on inquiry, found it was the reverse; in consequence, he made satisfaction to Inhemathlo, the chief of Fowl Town, and his people, for the injuries and losses they had sustained; at the same time he desired a talk to be sent to our head chiefs, stating his wish to see all the Indians friends, and that in twenty days, he would send and get the Americans to retire from the forts. But this had no effect on the lawless invaders of our soil, for before the bearer of the talk could return home, he met hundreds of Americans descending on us; they have also settlers and troops which come from Mobile, and go up the Appalachicola river; thus seeing no end to those invaders, necessity compelled us to have recourse to arms, and our brethren are now fighting for the land they inherited from their fathers, for their families and forces. But what will our exertions do without assistance; our sinews of war are almost spent; and harrassed, as we have been for years, we have not been able to lay by the means to provide for our extraordinary wants, and to whom can we look up to for protection and support. but to those friends who have at all former times held forth their hands to uphold us, and who have sworn in their late treaty with the Americans, to see our just rights and privileges respected and protected from insult and ag-

gression? We now call on your excellency, as the representative of our good father, King George, to send us such aid in ammunition, as we are absolutely in want of; and as our brother chief, Hillisajo, was informed, when in England, that when ammunition was wanted to enable us to protect our just rights, that your excellency would supply us with what was necessary. We have applied to the Spanish officer at the fort of St. Marks; but his small supply prevents his being able to assist us, and we have only on your excellency to depend. We likewise pray your excellency would be pleased to send an officer or person to lead us right, and to apportion the supply you may be pleased to send us, agreeably to our proper wants.

In praying your excellency will lend an ear to our demand, and despatch it without delay,

We remain your excellency's faithful,

And most obedient friends and servants,

[Signed]

CAPPACHEMICCO,  
BOLECK,

*For ourselves, and all the other Chiefs  
of the lower Creek Nation.*

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F.

*Letter from A. Arbuthnott to Col. Edward Nicholls.*

*Nassau, N. P. 26th August, 1817.*

SIR,

Especially authorized by the chiefs of the Lower Creek nation, whose names I affix to the present, I am desired to address you, that you may lay their complaint before his majesty's government. They desire it to be made known, that they have implicitly followed your advice in living friendly with the Americans, who were their neighbors, and nowise attempted to molest them: though they have seen the Americans encroach on their territory, burning their towns, and making fields where their houses stood, on the Chattahouche. rather than make resistance, they have retired lower in the peninsula. The town of Echalloway, where Otis Micco was chief, is one instance of the encroachments of the Americans; this town is situated unker the guns of

fort Gaines and Micco was desired to submit to the Americans, or his town would be blown to atoms; rather than do so, he retired, and is now living in the lower nation, and his fields, and even where the town stood, is ploughed up by the Americans. They complain of the English government neglecting them, after having drawn them into a war with America; that you, sir, have not kept your promise, of sending people to reside among them; and that if they have not some person or persons, resident in the nation, to watch over their interest, they will soon be driven to the extremity of the peninsula. You left Mr. Hambly, to watch over the interest of the Creek nation; but you hardly left the nation, when he turned traitor, and was led by Forbes to take the part of the Americans; his letter to me, of which I annex you a copy, will show you what lengths he could go, if he had the means. It is Hambly and Doyle, who give the Indians all the trouble they experience; they send their emissaries among the Lower Creeks, and make them believe the Cowhettas, aided by the Americans, are arming against them; thus both are put in fear, and their fields are neglected, and hunting is not thought of. I have endeavoured to do away this fear, by writing the chief of the Cowhetta towns, that they ought to live on friendly terms, with their brethren of the lower nation, whose wishes were to be on good terms with them, and not to listen to any bad talks, but to chase those, that give them, from among them. My letter was answered by them rather favorably, and I hope the talk that was sent to the big warrior last June, will heal the difference between them.

Hillisajo arrived in my schooner at Oclocknee sound last June, and was well received by all the chiefs, and others who came to welcome him home. In consequence of his arrival a talk was held, the substance of which I put on paper for them, and it was sent with a pipe of peace to the other nations. Hillisajo wished to return to Nassau with me, but I prevailed on him to stay in the nation and keep them all at peace. I regret, sir, to notice, this good man's affairs, though by his desire: it appears that he arrived in Nassau a short time after I had left it in January, and captain W. being here, took charge of him, his goods and money, prevailing on the governor to let him stay with him until he went down to the nation, which it was his intention to do. Of the money received of governor Cameron, he had only given him eighty dollars, by captain W. a barrel of sugar, a bag of coffee, and a small keg of rum; and the interpreter, Shugart, informed me, that when Hillisajo asked for an account, captain W. refused it, saying it would be useless to a man who could not read. He also misses two cases, one of which contained he thinks crockery; I have made inquiry of his majesty's ordnance store keeper, and he informs me the whole were delivered to captain W.; they are therefore lost to Hillisajo.

I am desired to return Hillisajo's warmest acknowledgments for the very handsome manner you treated him in England, and he begs his prayer may be laid at the foot of his royal highness, the

prince regent. I left him and all his family well, on the twentieth of June. Old Cappachimicco desires me to send his best respects, and requestst hat you would send out some people to live among them, and all the land they took from Forbes, shall be theirs. At all events they must have an agent among them, to see that the Americans adhere to the treaty, and permit them to live unmolested on their own lands. This agent should be authorized by his majesty's government, or he will not be attended to by the Americans. In the gazettes of Georgia, the Americans report the Seminole Indians are continually committing murders on their borders, and making incursions into the state. These are fabrications tending to irritate the American government against the poor Indians; for during the time I was in the nation, there was only one American killed, and he, with two others, were in the act of driving off cattle, belonging to Boleg, chief of Suwany, whereas three men and a boy were killed last June, by a party of American cattle-stealers, while in their hunting camps; the boy they scalped, and one of Boleg's head men was killed on St. John's river, in July. The backwood Georgians, and those resident on the borders of the Indian nation. are continually entering it, and driving off cattle. They have in some instances made settlements, and particularly on the Choctohachy river, where a considerable number have descended.

By the treaty with Great Britain, the Americans were to give up to the Indians, all the lands that may have been taken from them during the war, and place them on the same footing they were in 1811. It appears they have not done so; that Fort Gaines on the Chatahoochy river, and Camp Crawford on the Flint river, are both on Indian territory that was not in possession of the Americans, in 1811. They are fearful that before any aid is given by the English government, they will be no longer in possession of any territory.

I wrote last January to his excellency the Hon. Charles Bagot, respecting the encroachment of the Americans; as I was informed by the copy of a letter from the right honorable earl Bathurst, handed me by his excellency governor Cameron, that his majesty's ambassador had received orders to watch over the interests of the Indians. Since my return here, I have received of Mr. Moodie, of Charleston, an extract of a letter from the honorable Charles Bagot, that the expense of postage is so considerable, any further communications of the same nature, must be sent him by private hands. Now, sir, as no person goes from this direct to Washington, how am I to be able to comply with his desire? Thus he will be kept ignorant of the real situation of the poor Indians, and the encroachments daily made on their lands by American settlers, while he may be told by the American government that no encroachments have been made, and that the forts they still hold, are necessary to check the unruly Seminoles. Thus the person appointed to watch over the interest of the Indians, having no other means of information, than from the parties interested in their destruction, and seeing from time to time in the American

gazettes, accounts of cruel murders, &c. &c. on the frontier settlements of the United States, he apprehends the Indians merit all the Americans do to them.

But let his majesty's government appoint an agent with full powers and to correspond with his majesty's ambassador at Washington, and his eyes will then be opened as to the motives that influence American individuals as well as the government, in vilifying the Indians. The power given me, and the instructions were, to memorial his majesty's government as well as the governor general of Havanna, but if you will be pleased to lay this letter before his majesty's secretary of state, it will save the necessity of the first, and I fear that a memorial to the governor general would be of no use. Referring you to the answer,\*

I am most respectfully, sir,  
Your obedient servant,

[Signed]

A. ARBUTHNOTT.

*Lieut. col. Edward Nicholls.*

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G.

*From A. Arbuthnott to William Hambly.*

*Ocklocknee Sound, 3d May, 1817.*

SIR,

On my return here this day I received a letter, signed by you, and dated 23d March. As you therein take the liberty of advising me *as you say*, by order of the chiefs of the Creek nation, I am glad of, and shall embrace this opening you give me, and reply to you at some length. First, sir, let me premise, that when you lived at Prospect Bluff, a clerk to Messrs. Forbes and Co. you did not consider Cappachimicco, M'Quin, or any other of the chiefs of the lower Creek nation, as outlaws, nor have they ever been considered as such by the English government, who are the especial protectors of the Indian nations; and it ill becomes Mr. Hambly to call Cappachimicco an outlaw; that man who has ever been his friend, and by his authority

[\* See the unsigned paper, No. 71.]

has prolonged his life. Yes, sir, the young chiefs and warriors of the Creek nation, considering you as the chief cause of their troubles would have long ere this had possession of you, and perhaps, with your life, made you pay the forfeit for the injuries heaped on them, had not that man, who has been your friend from your early youth, stepped in as your protector. Yet, this is the man whom Mr Ham-bly presumes to call an outlaw. A pardoned villian when going to the gallows, would bless the hand that saved his life; but Mr. Ham-bly blasphemes his savior.

As Mr. Ham-bly's generous friend is the principle cause of my being in this country, as an honest man, I shall endeavor to fulfil my promise to him and the other chiefs. The guilty alone have fear; an honest and upright man dreads no dangers, fears no evil, as he commits no ill; and your arm of justice ought to be applied, where it would rightly fall on the head of the really guilty. Your mean and vile insinuation that I have been the cause of thefts and murders, comes ill from he who has been the cause of the murder of hundreds. Though your usage was made villanous at the fort, yet your revenge was too savage and sanguinary. If your conduct, sir, to the Indians, were guided by as pure motives as mine, you would endeavor to influence them, to esteem and respect each other as brothers, and live in harmony and friendship, cultivating their lands in summer, and taking their diversions of hunting in winter, respecting their neighbors, and making yourself respected by them. If thus, sir, you would act, (and by your knowledge of their language, you have much more in your power than any other man,) you would then be the true friend of the Indians. Were I an instigator to theft and murder, would I hold the language I have done, to the chiefs and others who have called on me? Ask the lieutenant commanding at Fort Gaines, if my letter to him breathed the strains of a murderer? Ask Opony Hatcho, or Dany, his interpreter, if the recommendatory note I sent him by order of Opony, could be written by an instigator to murder? Ask Opony himself, if my language to him was that of a murderer? Ask Mappalitchy, a chief, residing among the Americans in Oakmulgee, if my language and advice to him, savored of that of a murderer? All those, and every Indian who have heard my talks, will contradict your vile assertions.

But Mappalitchy has given me a clue by which I can unravel from whence the aspersions comes. Not from Opony, Hatcho, or any of the chiefs of the upper towns, but from he who endeavors to lead them to mischief and quarrels with each other. Did not the chiefs hear my note read with respect, and perfectly according with my sentiments, of being all as brethren, uniting in the bonds of friendship and love? Did not they agree to smoke the pipe of peace, with their brethren of the lower nation, and live in future as brothers? What made some of them alter their minds afterwards? The interference of a humane man, who caused them to write a letter to me demand-

ing my removing from a board of outlaws, and which letter is signed, "*William Hambly.*"

I shall only make one more observation, and that will show from whence I come, and whether I come amongst the Indians as a *renegado*, or as the friend of peace and harmony.

In the spring of 1816, W. Hambly sent governor Cameron a letter containing talks of the chiefs of the Indian nations; they were forwarded to England; and his excellency handed me, on my leaving Providence, an answer thereto from the right honorable earl Bathurst, one of his majesty's chief secretaries of state, that I might make the same known to the chiefs on my arrival in the nation. What will governor Cameron think of the man, who, in 1816, could write against the encroachments of the Americans on the Indian nation, and in the spring of 1817, call the chiefs of that nation, for whom he more especially wrote, outlaws? Mr. Hambly may sell his services to America, but no man can expatriate himself from that allegiance due to his native country; and a government may call on a friendly nation to give up a subject that has seriously wronged her.

I recommend Mr. Hambly to be content with *Douceur* he may have received and permit the unlettered Indian to live quietly and peaceably on his native land.

I shall send a copy of this letter, with the one from you, to be read to the chiefs of the nation, and shall, at the same time, take an opportunity of explaining myself more fully, than I did in the note sent by Opony. Wishing you a speedy recantation of your errors, and a return to your former way of thinking,

I am your obedient,

(Signed)

A. ARBUTHNOTT.

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## H.

*Letter from A. Arbuthnott, to the governor of Havana.*

*To his excellency, Don ——,*

*Governor General, &c. &c.*

The chiefs of the Creek nation, whose names are hereunto annexed, beg leave to approach your excellency, and represent their complaints. Long imposed on by the persons keeping stores in this country, in charging us exorbitant prices for their goods, while they

only allowed us a very trifling one for our peltry, we have found it necessary to look out for a person that will deal fairly with us, and we wish to establish a store for him on Appalache river; we have made application to the commandant of St. Marks, and he has referred us to your excellency. It is not alone the impositions that have been practised upon us, that has made us presume to address your excellency, we have complaints of a more serious nature, against the persons employed by the only house that has been established among us, that of Mr. Forbes. In the first place, some years back, under false pretences, they attempted to rob us of a very large portion of our best lands, and we the more readily acceded to it, from the faithful promise given us, that they would get English people to settle it, and live among us; but far from doing this, Mr. Forbes attempted to sell it to the American government, and settle it with Americans; thus finding ourselves deceived and imposed on, we withdrew our grant about three years since, which, from the stipulations contained therein, not being fulfilled on the part of Mr. Forbes, we conceived we had a right to do. Secondly, Mr. Doyle and Mr. Wm. Hambly, the two persons left in the nation to carry on Mr. Forbes's business, have, for more than two years, been endeavoring to influence us to join the Americans, and finding that fair means would not swerve us from our attachment to our ancient friends, the English, they have recently had recourse to threats, of bringing the Americans down upon us; and that people only want a pretext to attack us, which the said Doyle and Hambly attempt to give them, by spreading false reports of our murdering Americans, stealing their cattle, and preparing for war against them, while in fact, it is the Americans who murder our red brethren, steal our cattle, by hundreds at a time, and are daily encroaching on our lands, and maintaining the settlers in their ill gotten possessions by armed force.

On the Choctawhatchy river, there are a large body of Americans, forming settlements, and more are daily joining them. As this river is far within that line, marked out by your excellency's government, (and the Americans some years since, though that line was unknown to us until very lately, and we never gave our sanction, nor in fact, knew of any sale of our lands, being made to the Americans,) we trust your excellency will give orders, to displace them from within the line, and send them back to their own country. Our delaying to address your excellency, to represent the forementioned grievances, has been owing to the want of a person to attend to our talks, and put them in writing for us. The commandant of the fort of St. Marks, has heard all our talks and complaints. He approves of what we have done, and what we are doing, and it is by his recommendation we have thus presumed to address your excellency.

We have the honor to be,

Your excellency's most obedient,

And very humble servant,

(Signed)

A. ARBUTHNOTT.



No. 1.

*Power of attorney from the Indian Chiefs to A. Arbuthnott.*

Know all men by these presents, That we, chiefs of the Creek nation, whose names are affixed to this power, having full faith and confidence in *Alexander Arbuthnott*, of New Providence, who knowing all our talks, is fully acquainted with our intentions and wishes, do hereby by these presents, continue and appoint him, the said *Alexander Arbuthnott*, our attorney and agent, with full power and authority, to act for us and in our names in all affairs relating to our nation, and also to write such letters and papers, as to him may appear necessary and proper for our benefit, and that of the nation.

Given at Ocklocknee Sound, in the Creek nation, this 17th day of June, one thousand eight hundred and seventeen.

[Signed]

Cappachimico x

Inhimathlo x

Charle Tustonaky x

Otos Mico x

Ochacona Tustonaky x

Imathluche x

Inhimathluchy x

Lahoe Himathlo x

Homathle Mico x

Talmuches Hacho x

Hillisajo x

Opoithlimico x

[Kenhigee, chief of the Mickasukeys.

Chief of the Fowl towns.

Charle Nishomatta, second chief of the Ockmulgee towns.

Chief of the Conholoway, below fort Gaines.

Oponey, chief of the Ockmulgee towns.

Chief of the Attapulgas.

Chief of the Palatchocoleys.

Chief of the Chehaws.

Chief of the Red Sticks.

Peter M'Queen, chief of the Tallapasses, (an old Red Stick.)

Francis, the prophet.

A Red Stick, created chief by the lower towns.]

Witness,

**PETER SHUGERT,***Interpreter.*

[I certify that the Indian chiefs whose signatures are placed on the left hand side, to the full powers granted to Alexander Arbuthnott, are the chiefs of the towns and places above named.

[Signed]

**WILLIAM HAMBLY.**

Witness,

**WILLIAM S. FULTON,***Private Sec. Commanding Gen.]*

No. 2.

*Supposed to be for Bolegs to the governor of St. Augustine.*

*To his excellency Don Jose Copinger.*

*To his excellency, to James Green governor St. Augustine.*

SIR,

I had the honor of receiving your letter of September, but the impossibility of finding a person to write an answer to the same is the cause of this apparent neglect.

I shall be very happy to keep up a good understanding and correspondence with you, and hope you will, when occasion offers, advise me of such things as may be of service to myself and people. My warriors and others that go to Augustine, return with false reports tending to harass and distress my people, and preventing them from attending to their usual avocations. At one time the Americans and upper Indians, supported by a force of about 3000 men, were running lines far within the Indian territory; at another time are collecting a force at fort Mitchell in the forks of Flint and Chattahoochy rivers to fall on the towns below. Now, sir, we know of no reason the Americans can have to attack us, an inoffensive and unoffending people. We have none of their slaves, we have taken none of their property since the Americans made peace with our good father, king George. We have followed the orders of his officer that was with us, lieutenant colonel Edward Nicholls, and in nowise molested the Americans, though we daily see them encroaching on our territory, stealing our cattle and murdering and carrying off our people. That same officer also told us, we allies to the great king our father, were included in the treaty of peace between our good father and the Americans, and that the latter were to give up all the territory that had been taken from us before and during the war. Yet so far from complying with the ninth article of that treaty, they are daily making encroachments on our land, getting persons who are not known to the chiefs, and without any power or authority, to grant and sign over lands to them. Thus they deceive the world and make our very friends believe we are in league with them.

The principal chiefs of the nation, with the head warriors, assembled at my town, on the 8th instant, and came to the resolution of informing the British minister at Washington of the conduct of the Americans and the officers of their government towards us; it has been done accordingly, and copies sent to England. We demand of the king, our father, to fix some of his people among us, who may inform him from time to time, of what is passing, and see the Americans do not extend themselves on our lands. The Spanish subjects in the Floridas are too much in the interests of the Americans to be our friends. For the governors I shall always enter-

tain the greatest regard, but for the people, they do not act so as to merit any esteem and protection. You desire I would chase those marauders who steal my cattle: my people have lately driven some Americans from Lahhewary, and I have no doubt the Americans will hold of this as a pretext to make war on us as they have before done, in stating we harbor their runaway slaves.\*

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No. 3.

*General Mitchell, Agent for Indian Affairs,*

SIR,

Kenhijee, the head chief of the Lower Creek nation, has called on me to request I would represent to you the cruel and oppressive conduct of the American people, living on the borders of the Indian nation, and which he was in hopes, from a talk you were pleased to send him some weeks since, would have been put a stop to, and peace restored between the Indians and American people. But far from any stop being put to their inroads and encroachments, they are pouring in by hundreds at a time: not only from the land side, but ascending the Appalacicola in vessel loads; thus the Indians have been compelled to take up arms to defend their homes from a set of lawless invaders. Your known philanthropy and good will to the Indians, induces the head chiefs to hope that you will lose no time in using your influence to put a stop to those invasions of their lands, and order that those who have already presumed to seize our fields may retire therefrom.

The Indians have seized two persons they think have been greatly instrumental in bringing the Americans upon them, and they are now in their possession as prisoners. It is even reported they have made sales of Indian lands without the knowledge, consent, or approbation of the chiefs of the nation; and from their long residence in the nation, and the great influence the one of those people formerly enjoyed among the chiefs, as their chief, there is some reason to believe he has been guilty of improper conduct with regard to the Indian nation.†

\* [See this letter, No. 66, and governor Coppinger's answer.]

† [For the remainder of this letter, see No. 6.]

## No. 4.

*Petition of the Chiefs of the Lower Creek Nation, to Governor Cameron.*

We, the undersigned, deputed by the chiefs of the Creek Nation, to wait on your excellency, and lay before you their heavy complaints. To the English we have always looked up as friends, as protectors; and on them we now call to aid us in repelling the approaches of the Americans, who, regardless of treaties, are daily seizing our lands and robbing our people; they have already built seven forts on our lands; they are making roads and running lines into the very heart of our country; and without the interference of the English, we shall soon be driven from the land we inherited of our forefathers.

The Americans tell us, the English will regard us no more, and that we had better submit to them; but we cannot submit to their shackles, and will rather die in defence of our country.

When peace was made between the English and Americans, we were told by lieut. col. E. Nicholls, that the Americans were to give up our lands they had taken, and we were desired to live quietly and peaceably, in no wise molesting the Americans: we have strictly followed these orders; but the Americans have not complied with the treaty. Col. Nicholls left Wm. Hambly in charge of the fort at Prospect Bluff, and with orders to hear us if any cause of complaint, and represent the same to the British government; but he turned traitor, and brought the Americans down on the fort, which was blown up, and many of our red brethren destroyed in it. The ammunition and stores, intended for our use, were either destroyed or taken off by the Americans. We have sent several messengers to inform your excellency of these proceedings of the Americans, but they have never returned to us with an answer. Three of our red brethren have lately been killed by the Americans, while hunting on our own lands, and they threaten to attack the towns of Mickasuky and Sahwahnee, the only two large towns left us in the Creek nation; and without aid from your excellency, we cannot repel their attack. We are therefore deputed to demand of your excellency, the assistance of troops and ammunition, that we may be able to effectually repel the attack of the Americans, and prevent their further encroachments; and if we return without assistance, the Americans, who have their spies among us, will the more quickly come upon us. We most humbly pray your excellency will send such a force as will be respected and make us respectable.\*

Fort Mitchell, in the forks of the Flint and Chattahouche river.  
One above the forks on Flint river, and another almost at its head.  
One do. do. on Chattahouche, and one do. do.

\* [The undersigned paper, No. 71, is supposed to be the answer to this petition.]

(The following endorsed on the foregoing.)

*Charles Cameron, Esq. Governor, Commander in Chief, &c. &c. &c.*

I beg leave to represent to your excellency, the necessity of my again returning to the Indian nation, with the deputies from the chiefs, and as my trouble and expense can only be defrayed by permission to take goods to dispose among them, I pray your excellency will be pleased to grant me such letter or license, as prevent me from being captured, in case of meeting with any Spanish cruiser on the coast of Florida.

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No. 5.

*B. Moodie to A. Arbuthnott.*

*British Consulate,*

*Charleston, S. C. Feb. 7, 1817.*

SIR,

I duly received your letter dated, 8th January, with an enclosure which I forwarded to H. M. Envoy, the honorable Charles Bagot at Washington; since that time I have received a few lines from him, under date 29th ult. and at his desire I transmit you a copy of it annexed.

I am respectfully, Sir,

Your very obedient servant,

(Signed)

**BENJAMIN MOODIE.**

*To A. Arbuthnott, Esq. Nassau.*

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*Mr. Bagot to Mr. Moodie.*

*Washington, January 29th, 1817.*

SIR,

I duly received your letter of the 20th inst. enclosing one from Nassau. I shall be obliged to you, if you will take an imme-

diat opportunity of writing to the gentleman from whom you received that letter, acquainting him from me the expenses of postage are so considerable, that I must request if he has occasion to write to me again upon the same subject, he will forward his letters by private opportunities *only*.

I am, Sir,  
Your obedient humble servant,

[Signed]

CHARLES BAGOT.

*B. Moodie, Esq.*

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No. 6.

*Copy of a letter from A. Arbuthnott to General Mitchell, (enclosed by Col. Brearly, 27th Feb. 1818.)*

[The last paragraph is the extract referred to, p. 134, No. 3, appears to be the rough draught of the other paragraphs.]

*Sahwahnee, Lower Creek Nation,*

*19th January, 1818.*

*To General Mitchell,  
Agent for Indian Affairs.*

**SIR,**

Kenhajee, head chief of the Lower Creek nation, had called on me to request I would represent to you the cruel and oppressive conduct of the American people living on the borders of the Indian nation, and which he was in hopes, from a talk you were pleased to send him some weeks since, would have been put a stop to, and peace restored between the Indians and the American people; but far from any stop being put to their inroads and encroachments, they are pouring in by hundreds at a time, not only from the land side, but both troops and settlers ascending the Appalachicola river in vessel loads, that the Indians have been compelled to take up arms to defend their homes from a set of lawless invaders.

Your known philanthropy and good will towards the Indians in general, induced the chiefs to hope, that you will lose no time in using your influence to put a stop to those invasions of their lands and paternal birthright, and also order that those who have already seized on their fields may retire therefrom.

The Indians have seized two persons known to have been greatly instrumental in bringing the Americans down on their lands, and they are now in their possession as prisoners; and they have it in report, that sales of their lands have been made by those two people, without the consent, approbation, or knowledge of the chiefs; and from their long residence in the nation, and the one having enjoyed great confidence in the nation, and with the chiefs as English interpreter, there is some reason to believe those reports, when leagued with the swarms of Americans coming from Mobile and other places, seizing the best of the Indian lands, such improper sales have actually been made.

In taking this liberty of addressing you, Sir, in behalf of the unfortunate Indians, believe me I have no wish, but to see an end put to a war, which, if persisted in, I foresee must eventually be their ruin, and as they were not the aggressors, if in the height of their rage, they committed any excesses, that you will overlook them, as the just ebullition of an indignant spirit against an invading foe.

I have the honor to be, Sir, with great respect,

Your most obedient and humble servant,

[Signed]

A. ARBUTHNOTT,

by order of Kenhajee and Bolegs, acting  
for themselves and the other chiefs.

*Camp, before St. Marks, April 8, 1818.*

The foregoing letter was produced to A. Arbuthnott, on his examination before me, and acknowledged by him to have been written by him to general Mitchell, agent for the Creek nation.

[Signed]

ANDREW JACKSON.

Present, MR. FULTON.

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K.

DEFENCE.

May it please this Honorable Court:

The prisoner arraigned before you, is sensible of the indulgence granted by this honorable court, in the examination of the

case now before them. It is not the wish of the prisoner in making his defence, to tire the patience of the court, by a minute reference to the voluminous documents and papers, or to recapitulate the whole of the testimony, which have come before this honorable court, in the course of this investigation. Nor is it the intention of the prisoner to waste the invaluable time of this court, by appeals to their feelings or sympathy, though I am persuaded that sympathy no where more abounds than in a generous AMERICAN breast. My only appeal is to the sound and impartial judgment of this honorable court, the purity and uprightness of their hearts, that they will dispassionately and patiently weigh the evidence which they have before them, apply the LAW; and on these, and these alone, pronounce their judgment.

If this honorable court please, I shall now proceed to examine the law and evidence that is relied on by this honorable court, in support of the first charge and specification.

Winslett, a witness on the part of the prosecution, says "the Little Prince shew him a letter written in June last, signed A. Arbuthnott, requesting his friendship with the lower nations of Indians. The same witness stated he believed the letter to be now in the possession of the Little Prince. Here, may it please this honorable court, I would call their attention to the laws relating to evidence. First, premising that the rules of evidence are the same, whether in civil or military tribunals, M'Com. 99. This point being conceded, the next inquiry is, what are the rules of evidence with respect to the admission of letters or papers of private correspondence, in a court of criminal jurisdiction? May it please this honorable court, must you not produce the original letters and papers, if they are not lost or mislaid, so that they cannot be obtained; and in case they are lost, proof must be made of the hand write, being the same of that of the original, before they can be received as evidence? M'Com. on Court Martial, Peake's Evidence, Gilbert's Law of Evidence. No instance can be cited where a copy of a letter was read as evidence, where the original could be obtained, muchless the giving in evidence the contents of such letters from bare recollection. The only proof that this honorable court has of the existence of such a letter being in the hands of any person, or its contents being known, is the vagrant memory of a vagrant individual. Make this a rule of evidence, and I ask *you* where would implication, construction, and invention stop? Whose property, whose reputation, or whose life would be safe? Here I would beg leave to mention a remark made by the president of this court, in the course of this investigation, which was, that notwithstanding the letter was proved by the witness to be in the possession of the Little Prince, that this court could not notice that circumstance, because there was no means by which it could be obtained. I would ask the honorable court what means have they adopted, or what exertions they have made to procure this letter? If the honorable court please, I shall here close the defence on the first



charge and specification, believing that they are neither supported by law or evidence.

May it please the honorable court. I will now come to the second charge, and first specification of that charge. In support of this charge and specification, the evidence before the court is a letter written to my son. If the court please, this letter was written in consequence of the situation of my property at Sahwahnee, and the large debts that were due me from Bowleg and his people. Nothing, I believe, of an inflammatory nature can be found on reading the document marked A, authorizing the opinion that I was prompting the Indians to war. On the contrary, if the honorable court will examine the document marked A, they will see that I wished to lull their fears, by informing them that it was the negroes and not the Indians that the Americans were principally moving against.

If the honorable court please, I will make a few remarks upon the second specification, and then close my defence. In proof of this charge, the court have before them the evidence of Hambly, Cooke, and sundry letters purporting to be written by myself, to different individuals. May it please the court, what does Cooke prove? Why, that I had ten kegs of powder at Sahwahnee. Let me appeal to the experience of this court, if they think that this quantity of powder would supply one thousand Indians, and an equal number of blacks, more than two months for hunting? As to the letters named in this specification, may it please the court, the rules of evidence laid down in the first part of this defence, will apply with equal force in the present case. It remains now, may it please the court, to say something as to Hambly's testimony. And may it please this honorable court, the rule laid down in this case, as to hearsay evidence, will be found without a precedent. A strong case was stated by an intelligent member of this court, on the examination of this part of the evidence; "That is, would you receive as testimony, what a third person had said, who if present, you would reject as incompetent." Apply this principle to the present case; could an Indian be examined on oath, in our courts of judicature? If then the testimony of savages is inadmissible, Hambly proves nothing.

Here may it please the honorable court, I close my reply to the charges and specifications preferred against me; being fully persuaded that should there be cause of censure, that my judges will, in the language of the law, lean to the side of mercy.

*Continuation of the minutes of the proceedings of a Special Court, whereof Major General Gaines is President, convened by order of the 26th April, 1818.*

*Fort St. Marks, 27th April, 1818.*

The court proceeded to the trial of Robert C. Armbrister, a British subject, who, being asked if he had any objections to any one of the members of the court, and replying in the negative, was arraigned on the following charges and specifications, viz:

Charges against Robert C. Armbrister, now in custody, and who says he is a British subject.

Charge 1st. Aiding, abetting, and comforting the enemy, supplying them with the means of war, he being a subject of Great Britain, at peace with the United States, and lately an officer in the British colonial marines.

Specification 1st. That the said Robert C. Armbrister, did give intelligence of the movements and operations of the American army between the 1st and 20th March, 1818, and did excite them, (the negroes and Indians) to war against the army of the United States, by sending their warriors to meet and fight the American army, whose government was in peace and friendship with the United States, and all her citizens.

Charge 2d. Leading and commanding the Lower Creek Indians, in carrying on war against the United States.

Specification 1st. That the said Robert C. Armbrister, a subject of Great Britain, which government was in peace and amity with the United States, and all her citizens, did, between the 1st of February, and 20th of March, 1818, levy war against the United States, by assuming command of the Indians in hostility and open war with the United States, and ordering a party of them to meet the army of the United States, and give them battle; as will appear by his letters to governor Cameron, of New Providence, dated 20th March, 1818, which are marked A, B, C, and D; and the testimony of Mr. Peter B. Cook, and captain Lewis, of the schooner Chance.

By order of the court,

J. M. GLASSELL,

*Recorder.*

To which charges and specifications, the prisoner pleaded as follows, viz:

To the first charge and specification, *not guilty.*

To the second charge and specification, *guilty, and justification.*

The court adjourned until to-morrow morning, at seven o'clock.

*Fort St. Marks, 28th April, 1818.*

The court met pursuant to adjournment. Present,  
Major General GAINES, President.

*Members.*

Col. King,  
Col. Williamson,  
Lt. Col. Gibson,  
Major Muhlenburg,  
Major Montgomery,  
Capt. Vashon,

Col. Dyer,  
Lt. Col. Lindsay,  
Lt. Col. Elliott,  
Major Fanning,  
Major Minton,  
Capt. Crittenden.

Lieut. J. M. Glassell, Recorder.

The recorder then read to the court the following order:

*“Head Quarters, Division of the South.*

*Adjutant General’s Office,*

*Near St. Mark’s, 28th April, 1818.*

**“GENERAL ORDER.**

“Captain Allison of the 7th Infantry is detailed to form a supernumerary member to the special court now sitting at Fort St. Marks.

“By order.

“[Signed]

**ROBERT BUTLER,**

*“Adjt. General.”*

Pursuant to the above order, the supernumerary member took his seat.

John Lewis Phenix, a witness on the part of the prosecution being duly sworn, stated that about the fifth or sixth of April, 1818, his vessel and himself having been captured by the prisoner and he brought to Suwaney, as a prisoner, there was an alarm among the negroes and Indians created by learning some news from Mickasukee, at which time the prisoner appeared active in giving orders and sending a detachment to meet the American army. The witness also stated that the prisoner appeared to be a person vested with authority among the negro leaders and gave orders for their preparation for war, procuring ammunition, &c. and that the leaders came to him for orders; the prisoner furnished them with powder and lead, and recommended to them the making balls, &c., very quickly. The witness also stated that the prisoner occasionally dressed in uniform with his sword, and that on the first alarm which he understood was from Mickasukee by a negro woman, he put on his uniform. The witness further stated, that sometime about the 20th March, 1818, the prisoner with an armed body of negroes (24 in number) came on board of his vessel, and ordered him to pilot them to fort St. Marks, which he stated he intended to capture before the Americans could get there, threatening to hang the witness if he did not obey.

Question by the court. Did you ever understand by whose authority and for what purpose the accused came into the country?

Answer. I have frequently heard him say that he came to attend to Mr. Woodbine's business at the bay of Tamper.

Question by the Prisoner. Did I not tell you when I came on board the schooner Chance, I wished you to pilot me to St. Marks, as I was informed that two Americans by the names of Hambly and Doyle were confined there, and I wished to have them relieved from their confinement?

Answer. You stated you wanted to get Hambly and Doyle from St. Marks; I do not know what were your intentions in so doing.

Question. Did I not tell you that I expected the Indians would fire on me when I arrived at St. Marks?

Answer. You did not; you stated that you intended to take the Fort in the night by surprise.

Question. Did you see me give ammunition to the negroes and Indians, if so, how much and at what time?

Answer. I saw you give powder and lead to the negroes when you came on board, and advised them to make balls, and I saw you give liquor and paint to the Indians.

Question. Have you not often heard me say, between the 1st and 20th of April, that I would not have any thing to do with the negroes and Indians, in exciting them to war with the United States?

Answer. About the 15th of April, I heard you say, you would not have any thing to do with the negroes and Indians; I heard nothing about exciting them to war.

Question. Can you read writing?

Answer. Not English writing.

Question. Did you not hear me say when arriving at Sahwahnee, that I wished to be off immediately for Providenee?

Answer. I did not; after the alarm, you said you wished to be off for Tamper.

Question. Did you not say to the accused, you wished to visit Mr. Arbuthnott at his store on Suwany, and get provisions yourself?

Answer. I did not; I stated I wanted provisions.

Question. Did I send or command any Indians to go and fight the Americans?

Answer. I did not exactly know that you sent them; the Indians and negroes were crowding before your door, and you were dividing the paint, &c. among them; and I understood a party was going to march.

Question. Did I not give up the schooner in charge to you as captain?

Answer. After our return from Suwany town, you directed me to take charge of her to go to Tamper.

John J. Arbuthnott, a witness on the part of the prosecution, being duly sworn, stated; that sometime about the 23d March, the pri-

soner came with a body of negroes, partly armed, to his father's store, on Suwany river, and told the witness that he had come to do justice to the country, by taking the goods and distributing them among the negroes and Indians; which the witness saw the prisoner do; and that the prisoner stated to him, that he had come to the country on Woodbine's business, to see the negroes righted. The witness has further known the prisoner to give orders to the negroes, and that at his suggestion, a party was sent from Suwany to meet the Americans, to give them battle; which party returned on meeting the Mick-saukee Indians in their flight. The witness also testified to the hand writing of the letter, marked A, and referred to in the specification of the 2d charge, as the writing of the prisoner.

Question by the Prisoner. Did you hear me say, that I came on Woodbine's business?

Answer. I did.

Question by the Prisoner. Were not the negroes alluded to, at Arbuthnott's store before I arrived?

Answer. No you came with them.

Peter B. Cook, a witness on the part of the prosecution, being duly sworn, stated; that he never heard the prisoner give any orders to Indians or negroes; that the prisoner did distribute Arbuthnott's goods, and also paint, to the negroes and Indians; also that some powder was brought from Suwany by the prisoner, and distributed among the negroes by Nero. Sometime in March, the prisoner took Arbuthnott's schooner, and with an armed party of negroes, about 24 in number, set out for St. Marks, for the purpose of taking Arbuthnott's goods at that place, and stated that he would compel the commandant to give them up. On hearing of the approach of the American army, the prisoner told the negroes it was useless for them to run, for if they ran any further, they would be driven into the sea.

The prisoner told the witness, that he had been a lieutenant in the British army, under col. Nicholls. The prisoner was sent by Woodbine to Tamper, to see about those negroes he had left there. The prisoner told the witness, that he had written a letter to governor Cameron, for ammunition for the Indians sometime in March, and also told the witness, that he had a commission in the patriot army, under M'Gregor, and that he expected a captaincy. The witness testified that the letters, marked A, B, C, and D, and referred to in the specification to the second charge, were in the hand writing of the prisoner, also one marked E.

Question by the Prisoner. Did you not frequently hear me say, that I would have nothing to do with the Indians, in exciting them to war with the United States?

Answer. I do not recollect.

Question. Are you acquainted with Lewis Phenix, and have you not heard him express ill will against me, in consequence of my wishing him to pilot me to St. Marks?

Answer. I never did.

Question. Do you know my sending troops at any time to fight against the United States; and have I not been constantly with you; so that you would have had an opportunity of knowing if there had been any sent by me?

Answer. I have not. They might have been sent without my knowledge.

Jacob Harmon, a witness on the part of the prosecution, being duly sworn, stated, that some time in the latter end of March, or first of April, the prisoner took possession of the schooner *Chance*, with an armed party of negroes, and stated his intentions of taking *St. Marks*. On his way thither, on going ashore, he learned from some Indians, that *Arbuthnott* had gone to *St. Marks*, which induced him to return. The witness also stated, that while the prisoner was on board, he had complete command of the negroes, who considered him as their captain. The prisoner took the cargo of the vessel, up towards *Suwany*, which consisted of, with other articles, nine kegs of powder, and five hundred pounds of lead.

The evidence on both sides being closed, the prisoner was allowed until five o'clock this evening to make his defence.

The time allowed the prisoner, for the preparation of his defence having expired, he was brought before the court, and made the defence marked *M*, which is attached to these proceedings.

The court was then cleared, and the proceedings read over by the recorder, when, after due deliberation on the testimony brought forward, the court find the prisoner, *Robert C. Armbrister*, *guilty* of so much of the specification to the first charge as follows, viz: "And did excite them to war with the United States, by sending their warriors to meet and fight the American army, he being a subject of Great Britain, which government was at peace and friendship with the United States and all her citizens;" but *not guilty* of the other part of the specification; *guilty* of the first charge; *guilty* of the specification of the second charge; and *guilty* of the second charge; and do therefore sentence the prisoner, *Robert C. Armbrister*, to suffer *death*, by being *shot*, two-thirds of the members of the court concurring therein.

One of the members of the court, requesting a reconsideration of his vote on the sentence, the sense of the court was taken thereon, and deciding in the affirmative, when the vote was again taken, and the court sentenced the prisoner to receive fifty stripes on his bare back, and be confined with a ball and chain, at *hard labour*, for twelve calendar months.

The court adjourned *sine die*.

(Signed)

EDMUND P. GAINES,

*Maj. Gen. by brevet, Pres't. of the court.*

(Signed) J. M. GLASSELL,

*Recorder.*

A.

*From Robert Armbrister to his excellency Charles Cameron, Governor  
Bahamas.*

*Sahwahnee, near Fort St. Marks,*

*March 20th, 1818.*

SIR,

I am requested particularly by all our Indian chiefs, to acquaint your excellency, that the Americans have commenced hostilities with them two years ago, and have advanced some considerable distance in their country, and are now making daily progress; they say, they sent a number of letters to your excellency, by Mr. Arbuthnott, but have never received one answer; which makes them believe that he never delivered them, and will oblige them much, if you will let them know whether he did or not. The purport of the letters were, begging your excellency to be kind enough to send them down some gun powder, muskets, balls, lead, cannon, &c. as they are now completely out of those articles. The Americans may march through the whole territory in one month, and without arms, &c. &c. they must surrender. Allas Hadjo, or Francis, the Indian chief, the one that was in England, tells me to let your excellency know, that the prince regent told him, that whenever he wanted ammunition, that your excellency would supply him with as much as he wanted.

They beg me to press upon your excellency's mind, to send the abovementioned articles down by the vessel that brings this to you, as she will sail for this place immediately, and let the prince regent know of their situation. Any letters that your excellency may send down, be good enough to direct to me, as they have great dependence in my writing. Any news that your excellency may have, respecting them and America, will be doing a great favor to let me know, that I may send among them.

There is now a very large body of Americans and Indians, who I expect will attack us every day, and God only knows how it will be decided; but I must only say, that this will be the last effort with us. There has been a body of Indians gone to meet them, and I have sent another party; I hope your excellency will be pleased to grant the favor they request. I have nothing further to add,

But I am, Sir,

With due respect,

Your ob't. humble servant,

ROBERT C. ARMBRISTER.

## B.

*From Robert Armbrister, to Brevet Major Edward Nicholls.*

*Sahwahnee, near river Appalachicola.*

DEAR SIR,

Francis, and all the Indian chiefs, have requested me particularly to acquaint you, that the Americans have commenced hostilities with them this two years past, and are making daily progress in their territory, and say they will proceed. That you are the only friend they have in that part of the world, and hope that you exert yourself in their behalf, and ask for as much assistance as can be had; that the Americans are at the forks of the river Appalachicola. They have written a number of times to England and Providence, but have never received one answer; they expect the man never delivered the letters; but they have full hopes in my writing. They request you will make the prince regent acquainted with their deplorable situation. The Americans have been very cruel since they have commenced, and hope you will lose not a single moment in forwarding their views. They say, they will be extremely happy to see you out, nothing would give them greater pleasure than to see you out, at this present time. If they should not see you, to send them out all news and directions, that they may be guided by it.

There is about three hundred blacks at this place, a few of our Bluff people; they beg me to say, they depend on your promises, and expect you are on the way out, that they have stuck to the cause, and will always believe in the faith of you, and any directions you may give, send to me at this place, and I will do what I can.

I remain, my dear sir,

Most truly yours,

ROBERT C. ARMBRISTER.

N. B. Francis says, you must bring the horses when you come out, that you promised; and that his house has been burnt down, and burnt his uniform clothes.

R. A.

---

C.

*His Excellency Charles Cameron Esq. &c. &c, &c.*

*March 20th, 1818.*

SIR,

I am requested particularly by the Indian chiefs, to acquaint your excellency, that the Americans have commenced hostilities with



them a long time since, and have advanced some distance in their territory, and are still continuing to advance. That they, the chiefs of Florida, have sent repeatedly to your excellency, and have never received one answer; they suspect Mr. Arbuthnott has never delivered the papers to your excellency; they wish me to state to you, that they are completely out of ammunition, muskets, &c. begging your excellency will be pleased to send them the articles abovementioned, with a few cannon, as the Americans build their boats so strong, that their rifle balls cannot penetrate their sides.—The captain of the vessel who will come down again, I have given orders to make your excellency acquainted what time the vessel will sail for this place. Your excellency will I hope, be good enough to make the Prince Regent acquainted with their situation and ask for assistance, which they have pressed me very hard to press on your excellency's mind, and likewise to send them down what news may be respecting them and the country, which will be a great satisfaction to them.

I have the honor to be,

Sir, with due respect,

Your most obdt. humble servt.

**ROBERT C. ARMBRISTER.**

N. B. They beg your excellency will be as expeditious as possible. That your excellency is the only dependence they have, and to whom the Prince Regent told them, would give them every assistance that laid in your power.

**ROBERT C. ARMBRISTER.**

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D.

*His excellency governor Cameron, &c. &c. &c.*

*Sahwahnee, 20th March, 1818.  
Near Fort St. Marks.*

SIR,

I am requested by Francis, and all the Indian chiefs, to acquaint your excellency, that they are at war with the Americans, and have been some time back. That they are in great distress, for the want

of ammunition, balls, arms, &c. and have wrote by Mr. Arbuthnott, several times, but they suppose he never delivered them to your excellency. You will oblige them much, to let them know whether he did or not. I expect the Americans and Indians will attack us daily. I have sent a party of men to oppose them.

They beg me to press on your excellency's mind, to lay the situation of the country before the prince regent, and ask for assistance. All news respecting them, your excellency will do a favor to let me know by the first opportunity, that I may make them acquainted. I have given directions to the captain, to let your excellency know when the vessel will sail for this place.

I hope your excellency will be pleased to send them the ammunition. I expect, if they don't procure some very shortly, that the Americans will march through the country. I have nothing further to add.

But am, dear sir,

Your most obedient, humble servant,

ROBT. C. ARMBRISTER.

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E.

*Robert C. Armbrister to Peter Cook.*

*Mouth River.*

DEAR COOK,

The boat arrived here about three o'clock on Tuesday. The wind has been ahead ever since. I have been down; the rudder of the vessel is in a bad condition, but I will manage to have it done to-night. The wind, I am in hopes, will be fair in the morning, when I will get under way, and make all possible despatch. I will make old Lewy pilot me safe. If those Indians don't conduct themselves strait, I would use rigorous measures with them. Beware of Mr. Jerry; I found him on board when I came; keep a good look out. I have sent two kegs of powder, and a bar of lead.

Yours, &c.

R. A.

*Tuesday, 3 o'clock.*

## Defence M.

*Fort St. Marks, April 28th, 1818.*

*The United States of America,*

vs.

*Robert Christy Armbrister,*

Who being arraigned before a special court martial, upon the following charges, to wit:

1st. Aiding, and abetting, and comforting the enemy, supplying them with the means of war; he being a subject of Great Britain, at peace with the United States, and lately an officer in the British colonial marines.

Charges 2d. Leading and commanding the lower Creek Indians, in carrying on war against the United States.

To the first charge, the prisoner at the bar, plead not guilty; and as to the second charge, he plead guilty, and justification. The prisoner at the bar feels grateful to this honorable court, for their goodness in giving him a sufficiency of time to deliberate and arrange his defence on the above charges.

The prisoner at the bar, here avails himself of the opportunity of stating to this court, that, inasmuch as the testimony which was introduced in this case, was very explicit, and went to every point the prisoner could possibly wish, he has nothing further to offer in his defence, but puts himself upon the mercy of this honorable court.

(Signed)

**ROBERT C. ARMBRISTER.**

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*Head Quarters, Division of the South,  
Adj't. General's office, Camp, four miles  
North of St. Marks, April 29th, 1818.*

**GENERAL ORDER.**

At a special court martial, commenced on the 26th instant, at St. Marks, and continued until the night of the 28th, of which brevet major general E. P. Gaines is president, was tried A. Arbuthnott, on the following charges and specifications, viz:

Charge 1st. Exciting and stirring up the Creek Indians to war against the United States and her citizens, he, A. Arbuthnott, being a subject of Great Britain, with whom the United States are at peace.

Charge 2d. Acting as a spy, aiding, abetting, and comforting the enemy, and supplying them with the means of war.

Charge 3d. Exciting the Indians to murder and destroy Wm. Hamby, and Edmund Doyle, confiscate their property, and causing

their arrest, with a view to their condemnation to death, and the seizure of their property, they being citizens of Spain, on account of their active and zealous exertions to maintain peace between Spain, the United States, and the Indians.

To which charges the prisoner pleaded, *not guilty*.

The court, after mature deliberation on the evidence adduced, find the prisoner, A. Arbuthnott, guilty of the first charge, and guilty of the second charge, leaving out the words "acting as a spy:" and after mature reflection, sentence him, A. Arbuthnott, to be suspended by the neck, until he is dead.

Was also tried, Robert C. Armbrister, on the following charges, viz:

Charge 1st. Aiding, abetting, and comforting the enemy, and supplying them with the means of war, he being a subject of Great Britain, (who are at peace with the United States) and late an officer of the British colonial marines.

Charge 2d. Leading and commanding the lower Creek Indians in carrying on war against the United States.

To which charges the prisoner pleaded as follows, viz:

To the first charge, not guilty. To the second charge, guilty, and justification.

The court, on examination of evidence, and on mature deliberation, find the prisoner, Robert C. Armbrister, guilty of the first and second charges, and do therefore sentence him to suffer death, by being shot. The members requesting a reconsideration of the vote on this sentence, and it being had, they sentence the prisoner to receive fifty stripes on his bare back, and be confined with a ball and chain to hard labour, for twelve calendar months.

The commanding general approves the finding and sentence of the court, in the case of A. Arbuthnott; and approves the finding and first sentence of the court in the case of Robert C. Armbrister; and disapproves the reconsideration of the sentence of the honorable court in his case. It appearing from the evidence and pleading of the prisoner, that he did lead and command within the territory of Spain, (being a subject of Great Britain) the Indians in war against the United States; the nation being at peace. It is an established principle of the laws of nations, that any individual of a nation, making war against the citizens of another nation, they being at peace, forfeits his allegiance, and becomes an outlaw and pirate. This is the case of Robert C. Armbrister, clearly shown by the evidence adduced.

The commanding general orders, that brevet major A. C. W. Fanning, of the corps of artillery, will have, between the hours of eight and nine o'clock A. M. A. Arbuthnott suspended by the neck with a rope, until he is dead; and Robert C. Armbrister to be shot to death, agreeably to the sentence of the court.

John James Arbuthnott, will be furnished with a passage to Pensacola, by the first vessel.

Captain R. K. Call, of the 1st regiment infantry, is appointed volunteer *aid-de-camp*, to the commanding general, until further orders.

The special court, of which brevet major general E. P. Gaines is president, is dissolved.

By order of major general A. Jackson.

ROBERT BUTLER.

*Adjutant General.*

No. 50.

*Extracts from Message of 25th March, 1818, pages 7, 8, 11, 12, 14, 22.*

*Extract of a letter from the governor of Georgia to general Gaines, dated Milledgeville, 5th February, 1817.*

“You, no doubt, have already been informed, that the notorious Woodbine has recently made his appearance again, at the mouth of the Appalachicola, and that he has an agent now among the Seminole Indians and negroes in that quarter, stirring them up to acts of hostilities against this country; and that Woodbine himself has gone, in an armed vessel, to some part of the West Indies for supplies. Connected with this fact, is another which may serve as an intimation of the future conduct of these people, when once in the possession of the supplies which it is said they expect, on the return of Woodbine. About ten or twelve days ago, a small party of those Indians entered the frontier of Wayne county, and stole two horses and some cattle: they were pursued by some of the inhabitants, who peaceably demanded a restoration of the stolen property; and instead of a compliance on the part of the Indians, they immediately fired upon the whites, who retired without returning a shot.— One of the whites was mortally wounded.”

*Extract of a letter from George Perryman to lieutenant Sands, dated February 24, 1817.*

“The charge given me by col. Clinch and yourself, and other officers of the United States, induces me to believe there is a confidence placed in me, which I ought not to deceive. I therefore think it my duty, as well as my inclination, to give you the following information: there was a friend of mine, not long since, in the Fowl-town on Flint, and he saw many horses, cattle, and hogs, that had come immediately from the state of Georgia; and they are bringing them away continually. They speak in the most contemptuous manner of the Americans, and threaten to have satisfaction for what has been done; meaning the destruction of the negro fort. There is another of my acquaintances returned immediately from the Seminole towns, and saw the negroes on parade there: he count-

ed about 600 that bore arms: they have chosen officers of every description, and endeavour to keep up a regular discipline, and are very strict in punishing violators of their military rules. There is said to be about the same number of Indians, belonging to their party, and there are both negroes and Indians daily going to their standard. They say they are in complete fix for fighting, and wish for an engagement with the Americans, or M'Intosh's troops; they would let them know they had something more to do than they had at Apalachicola. They have chosen Bowlegs for their head, and nominated him king, and pay him all kind of monarchical respect, almost to idolatry, keeping a picket guard at the distance of five miles. They have a number of the likeliest American horses; but there is one or two chiefs that is not of the choir. Kenhagee, the Micasukey chief, is one that is an exception."

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*Extract of a letter from Archibald Clarke intendant, St. Mary's, Georgia, to Gen. Gaines, dated February 26th 1817.*

"On the 24th instant, the house of Mr. Garret, residing in the upper part of this county, near the boundary of Wayne county, was attacked during his absence, near the middle of the day, by this party, consisting of about fifteen, who shot Mrs. Garret, in two places, and then despatched her by stabbing and scalping. Her two children, one about three years, the other two months, were also murdered, and the eldest scalped: the house was then plundered of every article of value, and set on fire."

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*Extract of a letter from Richard M. Sands, 4th Infantry, commanding at Fort Gaines, Georgia, to Col. William King, or officer commanding the 4th Regt. Infantry, dated March 15th, 1817.*

"I enclose, for your information, two letters, which I received a few days since. Yesterday William Perryman, accompanied by two of the lower chiefs arrived here; he informs me, that M'Queen, the chief mentioned in one of the enclosed letters, is, at present, one of the heads of the hostiles: that they are anxious for war, and have lately murdered a woman and two children. He likewise says, that he expects the news in George Perryman's letter, is true; for there are talks going through the towns, that the English are to be at Okoloking river in three months."

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*Extracts of a letter from David B. Mitchell, Indian agent to the Secretary of War, dated at Milledgeville, Georgia, March 30th, 1817.*

"By yesterday's mail, I received a letter from Mr. Timothy Barnard, who resides at Flint River, in the Indian country, a considerable

distance below the agency, in which he observes, I have been informed two days past, from below, where the Red Stick class reside, that a party has been down near St. Mary's and murdered a woman and two children, and brought off some horses." "I will further state, that I have received information from other persons, at and near Fort Gaines, that a British agent is now among these hostile Indians, and that he has been sending insolent messages to the friendly Indians and white men settled above the Spanish line: he is also charged with stimulating the Indians to their present hostile aspect; but whether he is an acknowledged agent of any foreign power, or a mere adventurer, I do not pretend to determine; but am disposed to believe him the latter."

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*Extract of a letter from Gen. Gaines to the Secretary of War, dated Camp Montgomery, M. T. April 3d, 1817.*

"I received by the last mail, a letter from Archibald Clarke, Esq. intendant of the town of St. Marys, by which it appears that another outrage, of uncommon cruelty, has recently been perpetrated by a party of Indians upon the southern frontier, near the boundary of Wayne county. They have massacred a woman, Mrs. Garret, and two of her children, the mother and eldest child were scalped; the house plundered and burnt."j

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*Extract of a letter from A. Culloh, to General Gaines, written at Fort Gaines.*

"We are hourly told by every source of information, by the friendly Indians, by letters from William Hambly and Edmund Doyle, who reside low down on the Appalachicola, that all the lower tribes of Indians have embodied, and are drying their meats to come on to the attack of this post. The British agent at Oakelockiness sound is giving presents to the Indians. We have among us Indians who have been down and received powder, lead, tomahawks, knives, and a drum for each town, with the royal coat of arms painted on it. We have at this time, at least five hundred Indians skulking in this neighborhood, within three or four miles of us, who will not act for themselves, and who are evidently waiting for the signal to strike an effectual blow. They have stolen almost every horse belonging to the citizens. They have scared them from the fields which they have cleared, and have taken possession of their houses. They are now stealing horses, cattle, and hogs from the Georgia lines; and have killed one or two families on the St. Tillas."

*Extract of a letter from General Gaines to Major General Andrew Jackson, dated Fort Scott, Georgia, 21st November, 1817.*

“ The first brigade arrived at this place on the 19th instant. I had previously sent an Indian runner, to notify the first town chief, E-me-he-mant-by, of my arrival, and with a view to ascertain whether his hostile temper had abated, requesting him to visit me. He replied that he had already said to the commanding officer here, all he had to say, and he would not come.”

“ Among the articles found in the house of the chief, was a British uniform coat (scarlet) with a pair of gold epauletts, and a certificate signed by a British captain of marines, “ Robert White, in the absence of col. Nicholls,” stating that the chief had always been a true and faithful friend to the British.

“ The reports of friendly Indians, concur in estimating the number of hostile warriors, including the Red Sticks and Seminoles, at more than two thousand, besides the blacks amounting to near four hundred men, and increasing by runaways from Georgia. They have been promised, as several Indians informs me, assistance from the English at New Providence. This promise, though made by Woodbine, is relied on by most of the Seminole Indians. I have not a doubt but they will sue for peace, as soon as they find their hopes of British aid, to be without a foundation.”

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*General Gaines to the Secretary of War—with a Talk.*

No. 51. a.

*Head Quarters, Fort Scott, (Geo.) December 2d, 1817.*

SIR,

I had the honor to receive, on the 26th ultimo, your communication of the 30th October.

I am very happy to find that the President approves of my movement, but I much regret that his just expectations, as to the effect there was reason to believe would be produced on the minds of the Indians by this movement, have not been realized. I am now quite convinced, that the hostility of these Indians is, and has long since been, of so deep a character, as to leave no ground to calculate upon tranquillity, or the future security of our frontier settlements, until the towns south and east of this place, shall receive a signal proof of our ability and willingness to retaliate for every outrage. It is now my painful duty to report an affair of a more serious and decisive nature than has heretofore occurred,



and which leaves no doubt of the necessity of an immediate application of force, and active measures on our part. A large party of Seminole Indians, on the 30th ult. formed an ambuscade upon the Apalachicola river, a mile below the junction of the Flint and Chatahouchie, attacked one of our boats ascending near the shore, and killed, wounded, and took the greater part of the detachment, consisting of 40 men, commanded by Lt. R. W. Scott, of the 7th infantry. There were also on board, killed or taken, seven women, the wives of soldiers. Six men of the detachment only escaped, four of whom were wounded. They report that the strength of the current at the point of attack had obliged the lieutenant to keep his boat near the shore; that the Indians had formed along the banks of the river, and were not discovered till their fire had commenced; in the first volley of which lieutenant Scott and his most valuable men fell.

The lieutenant and his party had been sent from this place some days before, to assist major Muhlenberg in ascending the river with three vessels laden with military stores brought from Montgomery and Mobile.—The major instead of retaining the party to assist him, as I had advised, (see enclosure No. 2) retained only about 20 men, and in their place put a like number of sick, with the women, and some regimental clothing. The boat thus laden was detached alone for this place. It is due to major Muhlenberg to observe, that at the time he detached the boat, I have reason to believe he was not apprised of any recent hostilities having taken place in this quarter. It appears, however, from lieutenant Scott's letter, received about the hour in which he was attacked, (see enclosure No. 3) that he had been warned of the danger. Upon the receipt of this letter, I had two boats fitted up, with covers and port holes, for defence, and detached captain Clinch with an officer and 40 men, with an order to secure the movement of lieutenant Scott, and then to assist major Muhlenberg.

This detachment embarked in the evening of the 30th, and must have passed the scene of action below, at night, and some hours after the affair terminated. I have not yet heard from captain Clinch. I shall immediately strengthen the detachment under major Muhlenberg with another boat, secured against the enemy's fire. He will therefore move up with safety, keeping near the middle of the river. I shall moreover take a position with my principal force, at the junction of the river, near the line, and shall attack any vessel that may attempt to intercept our vessel and supplies below, as I feel persuaded the order of the President prohibiting an attack upon the Indians below the line, has reference only to the past, and not to the present or future outrages, such as the one just now perpetrated, and such as shall place our troops strictly within the pale of natural law, where self-defence is sanctioned by the privilege of self-preservation. The wounded men who made their escape, concur in the opinion, that they had seen upwards of 500 hostile Indian warriors, at different places below the point of attack. Of the force engaged, they differ in opinion; but all agree that the number was very considerable, extending about 150 yards along the shore, in the edge of a swamp or thick woods. I am assured by the friendly chief, that the hostile warriors of every town upon the Chatahouchie, prepared canoes, and pushed off down the river to join the Seminoles, as soon as the account of my movement from the Alabama reached them.

The Indians now remaining upon the Chatahouchie, I have reason to believe are well disposed. One of the new settlers, however, has recent-

ly been killed; but it has been clearly proved, that the murderer had belonged to the hostile party. The friendly chiefs in the neighborhood, when apprised of the murder, assembled a party, and sent in pursuit of the offender, and followed him to the Flint river, on the route to Mickasuky, whither he escaped. Onishajo, and several other friendly chiefs, have offered me their services, with their warriors to go against the Seminoles. I have promised to give them notice of the time that may be fixed for my departure, and then to accept their services. The enclosure, No. 1, contains the substance of what I have said to the chiefs who have visited me; several of whom reside south of the Spanish line and west of Apalachicola river. It was expected by the chiefs, that I should communicate to them my views and wishes. I felt authorised to say but little, and I deemed it necessary, in what I should say, to endeavor to counteract the erroneous impressions by which they have been misled by pretended British agents.

I hope the President will see, in what I have said, nothing to disapprove. I feel persuaded a report of the various talks which I received from the chiefs, would shew the propriety of what I have said to them.—Such a report, I have not a moment's time now to make. The Indians are at this moment firing at our camp from the opposite line of the river.

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

(Signed)

EDMUND P. GAINES,

*Major Gen. Commanding.*

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*Talk enclosed in 51. a. (No. 1.)*

#### *Chiefs and Warriors,*

The President of the United States has been informed of the murders and thefts, committed by the hostile Indians, in this part of the country. He has authorized general Jackson to arrest the offenders, and cause justice to be done. The Indians have been required to deliver up the murderers of our citizens, and the stolen property; but they refused to deliver either. They have had a council at Mickasukee, in which, they have determined upon war. They have been at war against helpless women and children; let them now calculate upon fighting men. We have long known that we had enemies east of this river; we likewise know we have some friends; but they are so mixed together, we cannot always distinguish the one from the other. The President wishing to do justice to his red friends and children, has given orders for the bad to be separated from the good. Those who have taken up arms against him, and such as have listened to the bad talks of the people beyond the sea, must go to Mickasukee, Suwaney, where we wish to find them together. But all those who were our friends in the war, will sit still at their homes, in peace. We will pay them for what corn and meat they have to sell us. We will be their friends, and when they are hungry, we will give them meat. The hostile party pretend to calculate upon help from the British!

as well look for soldiers from the moon, to help them. Their warriors were beaten and driven from our country, by American troops. The English are not able to help themselves; how then should they help the old "Red Sticks," whom they have ruined by pretended friendship?

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No. 51. b. (No. 2.)

*General Gaines to major Muhlenberg.*

*Fort Scott, November, 1817.*

SIR,

The waters having risen sufficiently high to enable you to ascend the river with all the vessels, I wish you to do so, though it should take longer than I had anticipated. You can avail yourself of the aid of lieutenant Scott's detachment to expedite your movement hither. Keep your vessels near to each other; and should you meet any insuperable obstacle, endeavour to apprise me thereof, and you shall have additional relief. Wishing to see you soon, with your fleet,

I remain with great regard, your obedient servant,

(Signed)

E. P. GAINES.

*To major Muhlenberg,*

*Comdg. the U. S. troops,*

*ascending Appalachicola river.*

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No. 51. c. (No. 3.)

*Lieutenant Scott to general Gaines,*

*Spanish Bluff, 28th November, 1817.*

SIR,

Enclosed you will receive major Muhlenberg's communication, which he directs me to forward to you by express, from this place. Mr. Ham-

bly informs me, that Indians are assembling at the junction of the river, where they intend to make a stand against those vessels, coming up the river. Should this be the case, I am not able to make a stand against them. My command does not exceed forty men, and one half sick, and without arms. I leave this immediately.

I am, respectfully,

Your obedient servant,

(Signed)

R. W. SCOTT,

*Lieut. 7th Infantry Comdg. detachment.*

Note. The bearer of this is entitled to three dollars, on delivering this letter. The Indians have a report here, the Indians have beaten the white people.

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No. 51—d.

*General Gaines to Captain Clinch,*

*Head Quarters, Fort Scott,*

*November 30, 1817.*

SIR,

You will embark with the party assigned you, on board the two covered boats; descend the river until you meet with lieutenant Scott; deliver to him a cover for his boat, and give him such assistance as in your judgment shall be necessary to secure his party, and expedite his movement to this place. You will then proceed with the residue of your command down the river, until you meet with major Muhlenberg, report to him, and act under his orders. You will in no case put your command in the power of the Indians near the shore. Be constantly on the alert, remember that United States' troops can never be surprised by Indians, without a loss of honor, to say nothing of the loss of strength, that might ensue.

*To Captain Clinch, 7th Infantry.*

No. 52.

*General Jackson to the Secretary of War.**Head Quarters, Division of the South,**Bowie's Town, Suwaney river,**20th April, 1818.*

SIR,

My last communication, dated camp before St. Marks, 8th April, and those to which it referred, advised you of my movements and operations up to that date, and as I then advised you, I marched from that place on the morning of the 9th. On the evening of the 10th, I was joined by the rear of the Tennessee volunteers; also by the Indians under general M'Intosh, whom I had left at Mickasuky, to scour the country around that place. Although the weather has been dry and pleasant, and the waters had subsided in a great degree, our march might be said to have been through water, which kept the infantry wet to the middle, and the depth of the swamps, added to the want of forage, occasioned the horses to give out daily in great numbers. On the morning of the 12th, near Econfinnah, or natural bridge, a party of Indians were discovered on the margin of a swamp, and attacked by general M'Intosh and about 50 Tennessee volunteers, who routed them, killing 37 warriors, and capturing six men, and ninety-seven women and children; also recapturing a white woman who had been taken at the massacre of Scott. The friendly Indians also took some horses, and about 500 head of cattle from the enemy, who proved to be M'Queen's party. Upon the application of an old woman of the prisoners, I agreed that if M'Queen was tied and carried to the commandant at St. Marks, her people should be received in peace; carried to the upper tribes of the Creek nation, and there provisioned until they could raise their own crops. She appeared much pleased with those terms, and I set her at liberty with written instructions to the commandant of St. Marks to that effect. Having received no farther intelligence from M'Queen, I am induced to believe the old woman has complied with her part of the obligation.

From St. Marks, I marched with 8 days rations, those that joined me having but five; this was done under the expectation of reaching this place in that time, founded on the report of my faithful Indian guide, which I should have accomplished, but for the poverty of my horses, and the continued sheets of water through which we had to pass. On the morning of the 15th, my scouts overtook a small party of Indians, killing one man, and capturing the residue, consisting of one man and woman, and two children, and on that evening I encamped, as my guide supposed, within 12 miles of Suwaney. I marched very early on the 16th, under the hope of being able to encompass and attack the Indian and negro towns by one o'clock P. M. but much to my regret, at 3 o'clock, and after marching 16 miles, we reached a remarkable pond which my guide recollected, and reported to be distant six miles from the object of my

march; here I should have halted for the night, had not six mounted Indians, (supposed to be spies) who were discovered, effected their escape; this determined me to attempt by a forced movement, to prevent the removal of their effects, and, if possible, themselves from crossing the river, for my rations being out, it was all important to secure their supplies for the subsistence of my troops. Accordingly, my lines of attack were instantly formed and put in motion, and about sunset, my left flank column, composed of the second regiment of Tennessee volunteers, commanded by col. Williamson, and a part of the friendly Indians under col. Kanard, having approached the left flank of the centre town, and commenced their attack, caused me to quicken the pace of the centre, composed of the regulars, Georgia militia, and my volunteer Kentucky and Tennessee guards, in order to press the enemy in his centre, whilst the right column, composed of the 1st regiment of Tennessee volunteers, under col. Dyer, and a part of the friendly Indians, headed by general M'Intosh, who had preceded me, were endeavoring to turn his left, and cut off his retreat to the river; they however, having been previously informed of our force, by a precipitate retreat soon crossed the river, where it is believed col. Kanard, with his Indians, did them considerable injury. Nine negroes and two Indians were found dead, and two negro men made prisoners.

On the 17th, foraging parties were sent out, who found a considerable quantity of corn, and some cattle. The 18th, having obtained some small craft, I ordered general Gaines across the river with a strong detachment, and two days provision, to pursue the enemy; the precipitancy of their flight, was soon discovered by the great quantity of goods, corn, &c. strewed through the swamps, and convinced general Gaines that pursuit was in vain, nine Indians and five negro prisoners were taken by our Indians; the evidence of haste with which the enemy had fled, induced the general to confine his reconnoissance to search for cattle and horses, both of which were much wanted by the army. About 30 head of cattle were procured; but from the reports accompanying general Gaines, which will in due time be forwarded to you, and the disobedience of his orders, by the Indians, not one pound was brought into camp.

As soon as time will permit, I shall forward a detailed account of the various little affairs with the enemy, accompanied with reports of the commanding officers of the detachment. Suffice it for the present, to add that every officer and soldier under my command, when danger appeared, shewed a steady firmness which convinced me that in the event of a stubborn conflict, they would have realized the best hopes of their country and general.

I believe I may say that the destruction of this place with the possession of St. Marks, having on the night of the 18th captured the late lieutenant Armbrister, of the British marine corps, and, as represented by Arbutnott, successor to Woodbine, will end the Indian war, for the present, and should it be renewed, the position taken, which ought to be held, will enable a small party to put it down promptly.

I shall order, or take myself a reconnoissance, west of the Appalachicola, at Pensacola point, where I am informed, there are a few Red Sticks assembled, who are fed and supported by the governor of Pensacola. My health being impaired, as soon as this duty is performed, the positions taken, well garrisoned, and security given to the southern frontiers, (if

the government have not active employment for me) I shall return to Nashville to regain my health. The health of the troops is much impaired, and I have ordered the Georgia troops to Hartford, to be mustered, paid, and discharged; the general having communicated his wishes, and that of his troops, to be ordered directly there, and reporting that they have a plenty of corn and beef, to subsist them to that point, I have written to the governor of Georgia, to obtain from the state, the necessary funds, to pay general Glascock's brigade when discharged, and that the government will promptly refund it. I am compelled to this mode to have them promptly paid, Mr. Hogan, the paymaster of the 7th infantry (for whom, I received from Mr. Brent, an enclosure, said to contain \$ 50,000) not having reached me.

From the information received from Armbrister, and a Mr. Cook, who was captured with him, that A. Arbuthnot's schooner was at the mouth of this river, preparing to sail for the bay of Tamper, my aide-de-camp, lieutenant Gadsden, volunteered his services with a small detachment to descend the river and capture her; the importance of this vessel to transport my sick to St. Marks, as well as to destroy the means used by the enemy, induced me to grant his request; he sailed yesterday, and I expected to have heard from him this morning. I only await his report to take up the line of march on my return for St. Marks; the Georgia brigade, by whom I send this, being about to march, compels me to close it without the report of lieutenant Gadsden.

I have the honor to be,

Very respectfully,

Your most obed't. serv't.

ANDREW JACKSON.

*Maj. Gen. commanding.*

*The Hon. John C. Calhoun,  
Department of War.*

No. 33.

*General Jackson to the Secretary of War.*

*Head Quarters, Division of the South,  
Fort St. Marks, 26th April, 1818.*

SIR,

I wrote you from Bowlegs' Town on the 20th instant. On the night of the same day, I received the expected despatch from my aid-

de-camp, lieutenant Gadsden, communicating the success of his expedition; and on the next day, as soon as the sick of my army were despatched down the Suwaney river, to be conveyed in the captured schooner to St. Marks, I took up the line of march for that fort. I arrived at this place last evening, performing a march of 107 miles in less than five days. Lieutenant Gadsden had reached it a few hours before me. He communicates having found, among the papers of Arbuthnot, Armbrister, and Cook, letters, memorials, &c. &c. all pointing out the instigators of this savage war, and, in some measure, involving the British government in the agency. These will be forwarded you in a detailed report, I purpose communicating to you as early as practicable.

The old woman, spoken of in my last communication to you, who promised to use her influence in having M. Queen captured and delivered up, has not been heard of. From signs discovered on the opposite shore of the St. Marks' river, I am induced to believe, that the Indian party is still in this neighborhood. A detachment will be sent out to reconnoitre the country, to receive them as friends, if disposed to surrender, or inflict merited chastisement, if still hostile.

I shall leave this in two or three days for fort Gadsden, and after making all necessary arrangements for the security of the positions occupied, and detaching a force to scour the country west of the Apalachicola, I shall proceed direct for Nashville. My presence in this country can no longer be necessary. The Indian forces have been divided and scattered, cut off from all communication with those unprincipled agents of foreign nations, who had deluded them to their ruin. They have not the power, if the will remains, of again annoying our frontier.

I remain, &c. &c.

(Signed)

ANDREW JACKSON.

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No. 54.

*Gen. Jackson to the Secretary of War.*

*Head Quarters, Division of the South,  
Fort Gadsden, 5th May, 1818.*

SIR,

I returned to this post with my army on the evening of the 2d instant, and embrace an early opportunity of furnishing you a



detailed report of my operations to the east of the Apalachicola river. In the several communications addressed you from Hartford, Fort Scott, and this place, I have stated the condition of the army on my assuming the immediate command; the embarrassment occasioned from the want of provisions; the privations of my troops on their march from the frontiers of Georgia; and the circumstances which compelled me to move directly down the Apalachicola river, to meet with and protect the expected supplies from New Orleans. These were received on the 25th March, and on the next day I was prepared for active operations. For a detailed account of my movements from that period to this day, you are respectfully referred to the report prepared by my adjutant general, accompanied with captain Hugh Youngs' topographical sketch of the route and distance performed. This has been principally a war of movements: The enemy cut off from their strong holds, or deceived in the promised foreign aid, have uniformly avoided a general engagement. Their resistance has generally been feeble; and in the partial rencountres, into which they seem to have been involuntarily forced, the regulars, volunteers, and militia, under my command, realized my expectations; every privation, fatigue and exposure, was encountered with the spirit of soldiers, and danger was met with a degree of fortitude calculated to strengthen the confidence I had reposed in them.

On the commencement of my operations, I was strongly impressed with a belief that this Indian war had been excited by some unprincipled foreign, or private agents. The outlaws of the old Red Stick party had been too severely convinced, and the Seminoles were too weak in numbers to believe, that they could possibly, alone, maintain a war with even partial success against the United States. Firmly convinced, therefore, that succor had been promised from some quarter or that they had been deluded into a belief that America dare not violate the neutrality of Spain, by penetrating to their towns, I early determined to ascertain these facts, and so direct my movements, as to undeceive the Indians. After the destruction of the Mekasukian villages, I marched direct for St. Marks: The correspondence between myself and the Spanish commandant, in which I demanded the occupancy of that fortress with an American garrison, accompanies this. It had been reported to me, direct from the governor of Pensacola, that the Indians and negroes, unfriendly to the United States, had demanded of the commandant of St. Marks a supply of ammunition, munitions of war, &c. threatening in the event of a noncompliance to take possession of the fort. The Spanish commandant acknowledged the defenceless state of his fortress, and his inability to defend it; and the governor of Pensacola expressed similar apprehensions. The Spanish agents throughout the Floridas had uniformly disavowed having any connexion with the Indians, and acknowledged the obligations of his catholic majesty, under existing treaties, to restrain their outrages against the citizens of the United States. Indeed they declared that the Seminole Indians were viewed

as alike hostile to the Spanish government, and that the will remained, though the power was wanting, to inflict merited chastisement on this lawless tribe. It was therefore to be supposed, that the American army, impelled by the immutable laws of self defence, to penetrate the territory of his catholic majesty, to fight his battles, and even to relieve from a cruel bondage, some of his own subjects, would have been received as allies, hailed as deliverers, and every facility afforded to them to terminate speedily and successfully this savage war. Fort St. Marks could not be maintained by the Spanish force garrisoning it. The Indians and negroes viewed it as an asylum, if driven from their towns, and were preparing to occupy it in this event. It was necessary to anticipate their movements, independent of the position being deemed essential as a depot, on which the success of my future operations measurably depended. In the spirit of friendship, therefore, I demanded its surrender to the army of the United States until the close of the Seminole war. The Spanish commandant required time to reflect; it was granted; a negotiation ensued, and an effort made to protract it to an unreasonable length. In the conversations between my aid de-camp, Lt. Gadsden, and the Spanish commandant, circumstances transpired, convicting him of a disposition to favor the Indians, and of having taken an active part in aiding and abetting them in this war. I hesitated, therefore, no longer, and as I could not be received in friendship, I entered the fort by violence. Two light companies of the 7th regiment infantry, and one of the 4th, under the command of major Twiggs, was ordered to advance, lower the Spanish colors; and hoist the star spangled banner, on the ramparts of fort St. Marks. The order was executed promptly, no resistance attempted on the part of the Spanish garrison. The duplicity of the Spanish commandant of St. Marks, in professing friendship towards the United States, while he was actually aiding and supplying her savage enemies; throwing open the gates of his garrison to their free access; appropriating the king's stores to their use, issuing ammunition and munitions of war to them; and knowingly purchasing of them property plundered from the citizens of the United States, is clearly evinced by the documents accompanying my correspondence. In fort St. Marks, as an inmate in the family of the Spanish commandant, an Englishman, by the name of Arbuthnott, was found; unable satisfactorily to explain the objects of his visiting this country, and there being a combination of circumstances to justify a suspicion that his views were not honest, he was ordered in close confinement. The capture of his schooner, near the mouth of Suwany river, by my aide-de-camp, Mr. Gadsden, and the papers found on board, unveiled his corrupt transactions, as well as those of a captain Armbrister, late of the British colonial marine corps, taken as a prisoner near Bowlegs town. Those individuals were tried, under my orders, by a special court of select officers; legally convicted as excitors of this savage and negro war, legally condemned, and most justly punished for their iniquities. The proceedings of the court martial in this case, with

the volume of testimony, justifying their condemnation, presents scenes of wickedness, corruption, and barbarity, at which the heart sickens, and in which, in this enlightened age, it ought not scarcely to be believed that a christian nation would have participated; and yet the British government is involved in the agency. If Arbuthnott and Armbrister, are not convicted as the authorized agents of Great Britain, there is no room to doubt, but that that government had a knowledge of their assumed character, and was well advised of the measures which they had adopted to excite the negroes and Indians in East Florida, to war against the United States. I hope the execution of these two unprincipled villains will prove an awful example to the world, and convince the government of Great Britain, as well as her subjects, that certain, if slow, retribution awaits these unchristian wretches, who, by false promises, delude and excite an Indian tribe to all the horrid deeds of savage war.

Previous to my leaving fort Gadsden, I had occasion to address a communication to the governor of Pensacola, on the subject of permitting supplies to pass up the Escambia river to fort Crawford. This letter, with a second from St. Marks, on the subject of some United States cloathing, shipped in a vessel in the employ of the Spanish government, to that post, I now enclose with his reply. The governor of Pensacola's refusal of my demand, cannot but be viewed as evincing an hostile feeling on his part, particularly in connexion with some circumstances reported to me from the most unquestionable authority. It has been stated, that the Indians at war with the United States, have free access into Pensacola; that they are kept advised from that quarter of all our movements; that they are supplied from thence with ammunition and munitions of war, and that they are now collecting in large bodies to the amount of 4 or 500 warriors in that city. That inroads from thence have lately been made on the Alabama, in one of which 18 settlers fell by the Tomahawk. These statements compel me to make a movement to the west of the Apalachicola, and should they prove correct, Pensacola must be occupied with an American force, the governor treated according to his deserts, or as policy may dictate. I shall leave strong garrisons in fort St. Marks, fort Gadsden, and fort Scott; and in Pensacola, should it become necessary to possess it.

It becomes my duty to state it as my confirmed opinion, that so long as Spain has not the power, or will, to enforce the treaties by which she is solemnly bound to preserve the Indians within her territory at peace with the United States, no security can be given to our southern frontier without occupying a cordon of posts along the sea shore. The moment the American army returns from Florida, the war hatchet will be again raised, and the same scenes of indiscriminate murder, with which our frontier settlers have been visited, will be repeated. So long as the Indians within the territory of Spain are exposed to the delusions of false prophets, and the poison of foreign intrigue; so long as they can receive ammunition, munitions of war, &c. from pretended traders, or Spanish commandants, it will be impossible to restrain their outrages. The burning of their towns, the destroying of their stock and provisions, will produce but temporary embarrassments; resupplied by Spanish authorities, they may con-

concentrate or disperse at will, and keep up a lasting predatory warfare against the frontiers of the United States, as expensive as harrassing to her troops. The savages therefore must be made dependent on us, and cannot be kept at peace without being persuaded of the certainty of chastisement being inflicted on the commission of the first offence.

I trust therefore that the measures which have been pursued will meet the approbation of the President of the United States. They have been adopted in pursuance of your instructions, under a firm conviction that they alone were calculated to insure "peace and security to the southern frontier of Georgia."

The army will move on the 7th from hence, crossing the Apalachicola river at the Ochesee bluff, about 30 miles above.

With respect, your most obedient servant,

ANDREW JACKSON,  
*Major Gen. Commanding.*

*The Honorable John C. Calhoun,  
Secretary of War, Washington City:*

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No. 55.

*General Jackson to the Secretary of War.*

*Head Quarters, Division of the South,  
Fort Montgomery, June 2d, 1818.*

SIR,

In a communication to you of the 5th of May, I detailed at length the operations of my army up to that period. Leaving a strong garrison of regulars in forts Scott and Gadsden, I resumed my march, with a small detachment of the 4th regiment of infantry, one company of artillery, and the effectives of the Tennessee volunteers, the whole not exceeding twelve hundred men, to fulfil my intentions, communicated to you, of scouring the country west of the Apalachicola river. On the 10th of May, my army crossed that river at the Ochesee village, and after a fatiguing, tedious, and circuitous march of 12 days, misled by the ignorance of our pilots, and exposed to the severest of privations, we finally reached and effected a passage over the Escambia. On my march, on the 23d of May, a protest from the governor of Pensacola was delivered me by a Spanish officer, remonstrating, in warm terms, against my proceedings, and ordering me and my forces instantly to quit the territory of his catholic majesty, with a threat, to

apply force, in the event of a non-compliance. This was so open an indication of a hostile feeling on his part, after having been early and well advised of the object of my operations, that I hesitated no longer on the measures to be adopted. I marched for, and entered Pensacola, with only the show of resistance, on the 24th of May. The governor had previously fled to Fort Carlos de Barrancas, where it was said he had resolved upon a most desperate resistance. A correspondence ensued between us, accompanying this, marked A, detailing at length my motives for wishing, and demanding, that Pensacola and its dependencies be occupied with an American garrison. The package, marked B, are documents substantiating the charges, in part, against the conduct of the Spanish governor, having knowingly and willingly admitted the savages, avowedly hostile to the United States, within the town of Pensacola. The peaceable surrender of the fort at the Barrancas was denied. I marched for, and invested it, on the evening of the 25th of May, and on the same night, pushed reconnoitering parties under its very guns. On the morning of the 26th, a military reconnoissance was taken; and on the same night, a lodgment was made, under a fire from the Spanish garrison, by captain Gadsden, of the engineers, aided by captains Call, and Young, on a commanding position, within three hundred and eighty five yards of the Spanish work, and a nine pounder mounted. A howitzer battery was simultaneously established on the capitol, and within seven hundred and sixty yards of the fort, at day light on the 27th. The Spanish garrison opened their artillery on our batteries; a parley was sounded, a flag sent in, and the surrender of Fort Carlos de Barrancas again demanded; the favorable positions obtained were pointed out, and the inutility of resistance urged. Anxious to avoid an open contest, and to save the effusion of blood, the same terms previously offered, were again tendered. They were rejected, and offensive operations recommenced. A spirited and well directed fire was kept up the greater part of the morning, and at intervals during the afternoon. In the evening, a flag was sent from the Spanish commandant, offering to capitulate, and a suspension of hostilities was granted, until 8 o'clock next day, when the enclosed articles of capitulation, marked C, were signed and agreed to. The terms are more favorable than a conquered enemy would have merited; but, under the peculiar circumstances of the case, my object obtained, there was no motive for wounding the feelings of those, whose military pride or honor had prompted to the resistance made. The articles, with but one condition, amount to a complete cession to the United States, of that portion of the Floridas hitherto under the government of Don Jose Masot.

The arrangements which I have made to secure Pensacola, and its dependencies, are contained in the general orders, and marked D. I deemed it most advisable to retain for the present, the same government to which the people had been accustomed, until such time as the executive of the United States may order otherwise. It was necessary however, to

establish the revenue laws of the United States, to check the smuggling which had been carried on successfully in this quarter, for many years past, and to admit the American merchant to an equal participation in a trade, which would have been denied under the partial operations of the Spanish commercial code. Captain Gadsden was appointed by me collector, and he has organized and left the department in the charge of officers, on whom the greatest confidence may be reposed.

Though the Seminole Indians have been scattered, and literally so divided and reduced, as no longer to be viewed as a formidable enemy; yet as there are still many small marauding parties, supposed to be concealed in the swamps of the Perdido, Choctawhatchey, and Chapouley, who might make occasional and sudden inroads on our frontier settlers, massacring women and children, I have deemed it advisable to call into service for six months, if not sooner discharged, two companies of volunteer rangers, under captains M'Gird and Boyles, with instructions to scour the country between the Mobile and Appalachicola rivers, exterminating every hostile party who dare resist, or will not surrender, and remove with their families above the 31st degree of latitude.

The Seminole war may now be considered as at a close, tranquillity again restored to the southern frontier of the United States, and as long as a cordon of military posts is maintained along the Gulf of Mexico, America has nothing to apprehend from either foreign or Indian hostilities. Indeed sir, to attempt to fortify, or protect an imaginary line, or to suppose that a frontier on the 31st degree of latitude, in a wilderness, can be secured by a cordon of military posts, while the Floridas lay open to an enemy, is visionary in the extreme.

Under this firm belief, I have bottomed all my operations. Spain had disregarded the treaties existing with the American government, or had not power to enforce them. The Indian tribes within her territory, and which she was bound to keep at peace, had visited our citizens with all the horrors of savage war; negro brigands were establishing themselves, when and where they pleased; and foreign agents were openly and knowingly practising their intrigues in this neutral territory.

The immutable principles therefore of self defence, justified the occupancy of the Floridas, and the same principles will warrant the American government in holding it, until such time as Spain can guarantee by an anequate military force, the maintaining her authority within the colony.

A topographical sketch of the country, from the Apalachicola to Pensacola, accompanies this. Captain Young will prepare, as soon as practicable, a topographical memoir of that part of the Floridas, in which my army has operated, with a map of the country.

Captain Gadsden is instructed to prepare a report on the necessary defences of the country, as far as the military reconnoissance he has taken will permit; accompanied with plans of existing works, what additions or improvements are necessary, and what new works should, in his opinion, be erected to give permanent security to this important territorial addition to our republic.

As soon as this report is prepared, captain G. will receive orders to repair to Washington City, with some other documents which I may wish to confide to his charge.

At the close of a campaign which has terminated so honorably, and happily, it gives me pleasure to express my approbation, generally, of the officers and soldiers of every species of corps, which I have had the honor to command. The patience with which they endured fatigue, and submitted to privations, and the determination with which they encountered, and vanquished every difficulty, is the strongest indication of the existence of that patriotic feeling, which no circumstances can change, and of that irresistible ardour in the defence of his country, which will prove her strength and bulwark under any experience. I should do violence to my feelings, if I did not particularly notice the exertions of my quartermaster general, colonel George Gibson, who, under the most embarrassing circumstances, relieved the necessities of my army, and to whose exertions, was I indebted for the supplies received. His zeal and integrity, in this campaign, as well as in the uniform discharge of his duties since his connexion with my staff, merits the approbation and gratitude of his country.

With respect,

Your most obedient servant,

(Signed)

ANDREW JACKSON,

*Maj. Gen. commanding.*

*The Hon. J. C. Calhoun,  
Secretary of War.*

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No. 56.

*Thomas Wayne, esquire, to B. Homans, esquire.*

*Extract of a letter from Thomas Wayne, esquire, purser on board the United States' brig Saranac, dated St. Mary's River, September 27, 1817, to Benjamin Homans.*

“On our arrival here, we found general M'Gregor in command of Amelia Island. A few days afterwards, he decamped, and embarked on board the privateer M'Gregor, formerly the St. Joseph.”

“The noted Woodbine, of infamous memory, arrived here from Nassau, with a view, as was said, to join the patriots; but his friend, M'Gregor, having left the cause, he was disappointed, and embarked with M'Gregor, who sailed a few days since, for Nassau, to commence some new expedition, which, it is generally supposed,

will be to the bay of Espirito Santo, or bay of Tampa, in latitude 28 degrees 15 minutes north, and longitude 76 degrees 30 minutes west; This is an extensive bay and capable of admitting ships of any size, contiguous to which are the first lands in East Florida, which Woodbine pretends, belong to him, by virtue of a grant from the Indians. He says he has surveyed the whole of the Gulf of Mexico, and Tampa bay is the only place into which large ships can enter."

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No. 57. a.

*Extracts from Message, 26th March, 1818. Pages 7, 9, 10, 12.*

*Extracts of a letter to the Secretary of State, dated Dec. 24, 1817. (p. 10.)*

"My informants, I have no doubt, are possessed of as much information of the views and plans of M'Gregor and Woodbine, as any person in the United States." "They sailed from Amelia in September, in company with a schooner belonging to Woodbine, he being on board. Some time after they had got to sea, general M'Gregor and family were put on board the schooner with Woodbine, and steered for New Providence."

"From what has been written, it may readily be supposed, that my friends had an opportunity of learning something of the plan of the future operations of M'Gregor and Woodbine, and they believe it to be as follows: Woodbine persuaded M'Gregor, that he could find friends and funds in New Providence, and that a British regiment had lately been disbanded there, that they would pick up as many of the soldiers as possible, and with what negroes and others they could gather, would make a tolerable force. They were then to sail for Tampa Bay, a fine harbor to the northwestward of Cape Florida, where they were to be joined by 1500 Indians, already engaged to Woodbine, and invade Florida from that point, they are then to march across, and attack St. Augustine."

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No. 57. b.

*Instructions for sailing in Tampa Bay, in M'Gregor's handwriting, enclosed in the letter of December 24, 1817.*

The vessels must be at Tampa Bay, commonly called Espirito Santo. I calculate to be at Tampa Bay, by the latter end of April, or first day of May, 1818. There are three bars, the northernmost bar is best, having five fathom water; keep on the larboard shore, going in. There is a small sandy key betwixt the northern and middle channel; upon this sandy key there will be a flag staff; and on hoisting your signal, will be answered by the Florida flag, and a pilot will come off.



No. 57. c.

*Extracts of a letter to a gentleman in the District of Columbia. (Message, p. 7.)*

*Baltimore, 30th July, 1817.*

Allow me now to relate in detail the particulars of my intercourse with general M'Gregor, whilst in this city, in regard to his objects. He declared his object to be, in the first place, to take possession of Amelia.— Thence to wrest the Floridas from Spain, when he should immediately call on the inhabitants, by proclamation, to designate some of their most respectable fellow-citizens to form a constitution on the model of some of the adjoining states. That so far as it might depend on him, he would encourage the existing disposition of the people in that section, to confederate with the United States; leaving it to the will and policy of this (our) government, and to political circumstances, as they might arise, to indicate the most favorable time for their admission into the Union.

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No. 57. d.

*From G. M'Gregor to the writer of the above, dated Nassau, 27th December, 1817. (p. 9.)*

“You know my objects.” “On the other side, you have the extract of a proclamation about to be published by the person in charge of making the settlement. I leave this to-day for England, to arrange my private affairs, which, from the many years that I have been in South America, have not improved by my absence: my family remains here until my return.”

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No. 57. e.

*Extract from Proclamation. (p. 10.)*

“Inhabitants of the Floridas! I expect soon to see general M'Gregor among you again, he was animated by a sincere wish for your happiness, and only desired to see you free from the yoke of Spain, in order that you might legislate for yourselves.”

No. 58.

*Extracts from the Minutes of the Proceedings of the Court Martial, in the trial of Armbrister.*

*From the examination of John Lewis Phenix, a witness on the part of the prosecution.*

Question by the Court. Did you ever understand by whose authority, and for what purpose the accused came into the country?

Answer. I have frequently heard him say, he came to attend to Mr. Woodbine's business at the bay of Tampa.

*From the examination of John J. Arbuthnott, a witness on the part of the prosecution.*

"And that the prisoner stated to him, that he had come to the country on Woodbine's business, to see the negroes righted."

Question by the Prisoner. Did you hear me say that I came on Woodbine's business?

Answer. I did."

*From the examination of Peter B. Cook, a witness on the part of the prosecution.*

"The prisoner told the witness, that he had been a lieutenant in the British army, under colonel Nicholls. The prisoner was sent by Woodbine to Tampa, to see about those negroes, he had left there. The prisoner told the witness that he had written a letter to governor Cameron, for ammunition for the Indians, some time in March, and also told the witness, that he had a commission in the Patriot army, under M'Gregor, and that he had expected a captaincy."

No. 59.

*Armbrister's Memorial to the Duke of York.***BAHAMA ISLAND.**

*To his Royal Highness, Frederick, Duke of York, Commander in Chief,  
 &c. &c. &c.*

The memorial of Robert Chrystie Armbrister, of the Island of New Providence, gentleman, humbly sheweth:

That your memorialist, a British subject, and son of James Armbrister, Esquire, lieutenant colonel, and commanding the militia of New Providence, having served for nearly four years past, as midshipman in the British navy, on board H. M. ships Sparrow, captain Edward Burt; Rhodean, captain George Mowbray; Reindeer, captain J. P. Douglass; and Bramble, captain William P. Poyson; from which last mentioned ship he obtained his discharge, in England, in 1813, and returned to the island of New Providence, where his friends reside, that major Nicholls, of the royal marines, having shortly after arrived at the said island of New Providence, in H. M. ship *Hermes*, in company with H. M. ship *Carron*, for the purpose of raising recruits for a corps, denominated the corps of Colonial Marines, destined to serve during the American war, in such parts of the Indian territory, bordering upon the United States of America, or in the states themselves, as circumstances should render it necessary; your memorialist applied for and obtained a commission of auxiliary second lieutenant in that regiment, which he immediately joined, and proceeded, under the command of the said major Edward Nicholls, to Apalachicola, from whence he proceeded to the Creek nation, where he served until those forces were disbanded upon the termination of hostilities with the Americans, when he returned to the said island of New Providence.

And your memorialist further sheweth, that having been assured by the said major Nicholls, at the time of his accepting the above mentioned commission, (a copy of which he begs leave to annex,) that he had no doubt, but that he would be placed upon half pay when his services were no longer required; your memorialist is desirous either of obtaining half pay, or of being more actively employed, and of obtaining a commission either in one of H. M. West India regiments, or in such other of H. M. regiments, as to your royal highness shall seem fit.

Your memorialist therefore humbly prays your royal highness to take into your consideration this his memorial, and he shall ever pray.

**ROBERT C. ARMBRISTER.**

No. 60.

*Armbrister's Commission.*

Auxiliary second lieutenant.—By the honorable sir Alexander Cochrane, knight of the Bath, vice admiral of the red, and commander in chief of his majesty's ships and vessels employed, and to be employed, on the North American station, &c. &c.

[L. S.]  
[ALEXR. COCHRANE.]  
To Mr. Robert C. Armbrister, hereby appointed auxiliary second lieutenant of the corps of Colonial Marines, to be raised upon the continent of North America.

Whereas, I have thought fit to send a detachment of the royal marine corps to the Creek Nations, for the purpose of training to arms, such Indians and others as may be friendly to, and willing to fight under the standard of his majesty: I do, by these presents, constitute and appoint you an auxiliary second lieutenant, of such corps of colonial marines as may be raised upon the continent of North America, to hold such local rank while actually employed upon the said continent, until further orders. You are, therefore, carefully and diligently to discharge the duty of auxiliary second lieutenant, by exercising and well disciplining, both the inferior officers and marines of the said corps; and I do hereby command them to obey you, as their second auxiliary lieutenant. And you are to observe and follow such orders and directions from me, or any other of your superior officers, according to the rules and disciplining of war, in pursuance of the trust hereby reposed in you.

Given under my hand and seal, at Bermuda, this twenty-fifth day of July, 1814, in the fifty-fourth year of his majesty's reign.

By command of the vice admiral.

(Signed) WM. BALHETCHET, *Secretary.*

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No. 61.

*P. B. Cook to Eliz. A. Carney.*

*Sahwahnee, January, 19th, 1818.*

*My dear Amelia,*

I have embraced this opportunity of writing you, hoping to find you well, as leaves me at present, and I am very sorry to inform

you of the times at present. We are threatened every day by the d—d Americans. Not threatened only but they have made an attempt; but we stopped. On 1st December, I marched with thirty men to go against them. After seven days march, we arrived at the fort. And after our men got rested, I went against it. We had an engagement for four hours, and seeing we could do no good with them we retreated and came off. The balls flew like hail stones; there was a ball that like to have done my job, it just cleared my breast. For six days and six nights we had to camp in the wild woods, and it was constant raining night and day, and as for the cold I suffered very much by it, in the morning the water would be frozen about an inch thick. There was a boat that was taken by the Indians, that had in thirty men, seven women, four small children. There was six of the men got clear, and one woman saved, and all the rest of them got killed. The children were taken by the heels, and their brains dashed out against the boat. We have got Mr. Hambly and Doyle prisoners, and we are going to send them to Nassau to stand their trial, as they have caused all this disturbance. Hambly told me that it was published in the American newspapers that they were to take possession of the nation in March, and if that be the case you will see us sooner than you expected. And if they should come when the vessel is away, we shall have to take and run in our canoes, as we have some very fine ones here. One knows not hardly what to do for those d—d puppies as we may call them, for they are no better.

We find that what I have mentioned is all damned lies. But Arbuthnott has threatened my life once or twice, but on my return I will punish him by the law. You must excuse my bad writing as I am in a hurry. Give my love to your mother and your sister and Mrs. Roberts and all inquiring friends. I have nothing more to say at present, as times will not admit.

I remain yours forever.

[Signed]

PETER B. COOK.

[Addressed on the back to]

*Miss E. A. Carney, Nassau, New Providence.*

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No. 62.

*Arbuthnott to W. Hambly.*

*Okolokne Sound, the 3d May, 1817.*

*Mr. William Hambly,*

SIR,

On my return here this day, I received a letter signed by you, and dated the 23d March last. As you have taken the trouble of ad-

vising me, you will, of course, expect my reply; and I embrace the opportunity of doing it at length: first let me premise, sir, that when you lived at Prospect Bluff, a clerk to Messrs. Forbes and Co. you did not consider Cappachimico, M'Queen, or any other of the chiefs of the lower Creek nation, as outlaws; does the man whom the attachment of Cappachimico has saved from the hands of retributive justice, presume to call him an outlaw? for shame sir—the most hardened villain would not thus calumniate the savior of his life. Your generous friend sir, and the other chiefs have called me to this country; they insist on the fulfillment of my promise, and as an *honest man*, I will endeavor to do it. Let *your* arm of justice fall on the guilty; an honest and upright man who harms no man, and endeavors to do all the good he can, fears no man or judge; his acts are open to inspection, and will bear the test of scrutiny. Thus, sir, I answer your insinuation, that since my arrival in this country, I have instigated persons to steal and murder. Ask the lieutenant commanding at fort Gaines, if the letter I wrote him bears the features of an instigator to murder? Ask Opoy Hatcho, if the recommendatory note I sent him, by order of Oponey, breathes the strains of a murderer? Ask Oponey himself, if my language and advice to him, was that of a murderer? Ask Mappalichy, a chief residing on the Ocmulge among the Americans, what my advice was. All those will contradict your vile insinuation. But Mappalichy informed me the Conhittas were all pleased with the letter, and my note Oponey sent them, and perfectly accorded with my sentiments, of living as brethren, and as one large family, respecting their neighbors, but at the same time, at all times ready to protect their property. Yet several of them, a few days afterwards, (no doubt influenced by *some humane and good man*) recanted their promise, and ordered a letter to be written me; which letter I presume, I have this day received, signed by you. Now sir, if your principles were as humane as mine, if you took as much pleasure in fostering any spark of friendship, the upper Indians may show to their brethren of the lower nation, as you do in fomenting the quarrels between them, you would then be their friend and benefactor. You, sir, that speak their language fluently, have much in your power, but I fear, you use that power to the injury of all, and eventually, to your own ruin. Let me advise you to change your tone and mode of acting; how much more creditable would it be, for you to propagate friendly actions, and create an attachment among the Indians of all nations, one to the other, than to endeavor to foment quarrels, and have your emissaries in every quarter of the nation spreading false reports, tending to harass and disturb them. Now, sir, with regard to your and Mr. Doyle's reporting that I am no Englishman, and only one of those wild adventurers who risk life and property for *lucre*, be pleased to come down to Okolokne, and I will show you a letter, written by earl Bathurst to governor Cameron, (and which I received from him, to read to the chiefs of the Creek nation) an answer to a letter I believe written by you, early in the spring of 1816.

I shall not reflect on the part you took in blowing up the fort at Prospect Bluff; it is not my business. I know the blacks used you shamefully, as they did all that went near them, yet I think the revenge you took savors much of savage.

Do not think sir, that I am to be frightened away from this place, while I have the protection of the Spaniards, and the support of honest men. An upright man is not easily daunted.

I keep a copy of this letter, and send a copy of yours with my answer, to Opoy Hatcho, and as I am with daily expectation of letters from New Providence, perhaps they may induce me to write you farther.

I am Sir,

Your obt. servt.

A. ARBUTHNOTT.

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The murders and thefts you talk of, I do not believe. There are a parcel of outlaws, calling themselves Americans, who are continually coming into the nation, stealing cattle, &c. and lately, I hear, one was killed out of three, *and his horse taken, and publicly sold*, while in the act of stealing and driving off cattle.

A. A.

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No. 63.

*Indian Talk.*

*To our good brother the chief Tustonaky Thlucco, the Big Warrior.*

Your brothers, chiefs of the Creek nation, whose names are put to the talk we now send you, have found it necessary to hold the same, that their sentiments and opinions may be known to all their red brethren of the four nations, and stop the mouths of bad men, who are continually sending false and bad talks to us, as well as to our brethren, for the purpose of making ill blood between us. Know then, we have met at Okoioke Sound, with our warriors and young chiefs, and have held our talk, which is this:

The red brethren of the four nations are all descended from the same fathers, and ought to live as brothers; and for this reason, we now take them by the hand, to live henceforth at peace, and united to each other, and let no bad talks be listened to, or come among us.

When colonel Nicholls, the English officer, was last among us, went away, he gave us a good talk, desiring us to live well with all our brethren, and never permit ill blood to be between us, and to respect the Americans that were our neighbors, and not molest or permit our people to steal. We have carefully kept this talk, followed his advice, &c.

It is nearly three years since we received a white bead from the Cherokees. We have held it sacred, and it has been in our at all our talks; we now send you, that you may forward to their head Minichico Mico, a pipe from his old friends; you will also send him the present talk, and from him let it be sent to the Chicasaws, and from them to the Choctaws.

Colonel Nicholls promised us to send people from England to keep stores in different parts of the nation, to furnish us with goods; he had found people willing to come, but when they heard that the fort of Apalachicola was destroyed, they were fearful of coming, and withdrew their promise.

Let us protect all white men that give us good talks, but let us not regard or listen to those who give us bad ones, but rather send them from among us; for he must be a bad man who wishes ill blood between brothers.

From this time, therefore, let us not listen to any bad talks; let us all hold each other fast by the hand of peace, and each brother hold the other in his heart.

This is sent with a good will, and will be kept by us.

Opoithlamico  
 Cappachimico  
 Inhimathlo, Fowltown  
 Charle Tustonaky  
 Otos Mico  
 Ochacona Tustonaky  
 Euchy Tustonaky  
 Imathluce  
 Inhimathluce, Palo Chipely  
 Lahoihimathlo  
 Homathle Mico  
 Talmuches Hatcho  
 Hillisajo.



No. 64.

*Arbuthnott to Mr. Bagot.*

[Found with Arbuthnott's papers.]

*The hon. Charles Bagot,**His Britannic Majesty's Ambassador, Washington.*

SIR,

On my return to this from the Indian nation, about a month since, I received a letter from Mr. Moodie, annexing an extract from a letter of your excellency, and which in future shall be attended to, when I have occasion to write on Indian affairs.

As I am now especially authorized by the chiefs, whose names I beg leave to annex to the present, to make such representations as may be of service to the nation; and learning by the copy of a letter from the right honorable earl Bathurst, handed me by his excellency governor Cameron, that your excellency is instructed to watch over the interests of the four nations, I shall take the liberty to lay before your excellency such matters as have come under my own observation, and what has been reported to me by chiefs, in whose veracity I can place some confidence. On my arrival at Okolokne Sound last January, I was met by several of the principal chiefs, who reiterated the complaints that were stated to your excellency in their letter of last November. On the Chattachouche particularly, they stated the Americans were descending in numbers, driving the poor Indian from his habitation. The report was confirmed some weeks after, by Otis Mico, the chief of the town of Elan Hallaway, on the Chattahouchy, who informed me, that the officer commanding at fort Gaines had repeatedly sent messages to him, desiring he would submit to live under the American government, and threatened, that his non-compliance would force him to turn the guns of the fort against the town and drive them out; these threats and swarms of American settlers descending, drove the poor Indians from their homes, and thirty-six fields in a state of cultivation, were occupied by the new settlers; and where the houses stood, the plough has passed over.

On the Choctahatchy, which is far within the Indian territory, Americans have formed a large settlement, which, if persisted in, will soon drive the Indians to the extremity of the peninsula.

Agreeably to the treaty between Great Britain and America, the latter were to confine themselves to the same boundaries they enjoyed in 1814, prior to the war—this they have not done, but encroached on almost every point of the Indian territory; the chiefs think that it is impossible the conduct of the persons acting so contrary to the

treaty, can be known to the American government; and the more to blind the government, and to mislead them as to the true state and disposition of the Indians, they are continually spreading reports in the public Gazettes of Georgia, &c. of cruelty committed by the Seminole Indians, on inhabitants living on the borders of the United States; whereas, it is persons with back settlements of Georgia, who enter the Seminole territory in large parties to steal cattle, which they frequently drive off in gangs of 50 and 100 at a time, and if in these excursions the Indians meet them, and oppose these predatory plunderers, blood sometimes has been spilt, which was the case in April last, when a party of Mickasuky Indians, met three men driving off cattle, and attacked them, killing one, and retaking the cattle. But those blood-thirsty, back settlers of Georgia, soon retaliated on the poor Indians, for early in June they returned to plunder, and meeting with an Indian encampment, they killed one man, another making his escape, they pursued him to another encampment, where they killed two others and a boy; the boy they scalped. Early in July, a head man of the town of Sahwahnee, was killed on St. John's river while hunting, but the chief does not reckon the persons who killed him, true Americans. For the better showing your excellency how those poor Indians are abused, I beg leave to enclose you paragraphs taken from American papers, the whole of which are complete fabrications, tending to mislead the American government. I also beg your excellency's attention to a letter from an American officer dated at fort Gaines, with Cappachimico, the head chief of the Seminoles' answer thereto, but notwithstanding it is stated to be by authority of the President of the United States, the gentleman waited no time to receive an answer, but prior to the chief's messenger arriving at the fort, had continued his road for St. Mary's, leaving them ignorant of what talk he was authorized to give them, and I have since learnt, that Mr. Dinkins was an officer of general Jackson's staff, travelling through the nation.

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No. 65.

*A. Arbuthnott, to a person of rank in England; taken from the (London) Times newspaper, of 7th August, 1818.*

*Sawahnee, Lower Creek Nation,*

*January 30, 1818.*

When I last took the liberty of writing to you, by the desire of the chiefs of the Creek nation, I little expected that war would so

soon have commenced between the Americans and them; it is, however, actually begun, by the wanton aggressions of the former, in an attack on Fowl Town, during the night. Though this wanton attack has been disavowed by general Mitchel, the American agent for Indian affairs, and he has made reparation for the injury and loss sustained by Inhilmathla, and his people, yet the continued aggressions of the Americans, and the numbers pouring into the nation, not from the land side alone, but from Mobile, and elsewhere, by the Appalachian river, have compelled the Indians to take arms as their only resource from oppression.

Your friend Hillisajo, has been called by his people to put himself at their head, and he is now encamped at Spanish Bluff, the residence of Doyle and Hambly, which is now in the possession of the Indians, with from 1000 to 1200 men; those men are principally Red Sticks, who are scattered about in the nation, and who have collected and put themselves under his command, with a few hundred Upper Indians, who have joined them.

I cannot allow myself to believe, that those encroachments on Indian territory, are made with the knowledge of the American government, and general Mitchell's conduct and message to Kinadjee, assure me it is not so. But there are persons who wish to get hold of the Indian lands, and they stick at no means, however cruel and oppressive, to obtain their ends. General Gaines's letter of August last, to Kinadjee, clearly shows that he and general Jackson are determined, if possible, to get hold of the whole Indian lands. After falsely accusing them of murders, thefts, burning houses, &c. he says, but there is something out of the sea, a —, with forked tongues, whip him back before he lands, for he will be the ruin of you yet. Perhaps you do not know what or whom I mean. I mean the name of Englishman.

The other contents of this letter, plainly show me that those two generals have formed a plan of possessing themselves of the whole Indian lands. That this plan has originated with Forbes, Inneraritys, or those of their subordinate agents, I have little doubt, as every part of the conduct of those inferior actors, shows they have been employed for the express purpose of rooting out the poor Indian from his paternal inheritance. The report of Hambly having made sales, in the name of the chiefs, of all the lands from Pensacola to St. Augustine, comes from St. Marks' fort. I shall soon be there, and learn from what source they derive their information.

That false and improper sales have been made, I have no doubt; without such had been the case, the Americans would have never poured into the Indian nation by the Appalachian.

It is reported that John Forbes has withdrawn from all Indian concerns; but the Inneraritys are enough, with their subordinate agents, to disturb the whole Indian nation; and I have not the least doubt, that through them the present troubles come.

The chiefs have written to governor Cameron, for a supply of munition, and which Kinadjee informs me, Hillisajo, when in England, had orders to demand, in case of actual need. It is really necessary the English government should do something for those people. In the late war they drew them into their quarrel against America; at the peace, they agreed to see them protected in their rights and privileges, and placed on the same footing as before the war; since then, they have never troubled themselves about them, thinking it enough, that his majesty's ambassador had orders to see that those people were protected in their rights and privileges. But how is his excellency, the British ambassador, to know if the Indian is righted, and permitted to live quietly on his own land? He interdicts the correspondence of any private individual, on Indian affairs, unless it can be put into his hand, without any expense. Does he expect a true account of what passes in the Indian nation, from the American government, or from the hireling gazettes of the towns of upper Georgia? It is the interest of both to deceive, and unless the door is opened for British subjects to speak what they know, and instruct his excellency of such matters, respecting the Creek nation, as they are certain to be true, he can never have the means of judging what is proper to be done.

I have, by desire of the chiefs, written to his excellency, the honorable Charles Bagot, on their affairs, and also governor Cameron, with a demand for a small supply, of which they stand greatly in need. I trust, Sir, you will make such representations to his majesty's government, as the circumstances of the case require, that those unfortunate people, *who look up to you as their friend*, may soon rest peaceably and quiet in their country.

You will pardon the liberty I take, which nothing but the pressing solicitations of Kinadjee, would have induced me to take, and, with much respect,

I am, Sir, your most obedient servant,

[Signed]

A. ARBUTHNOTT.

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No. 66.

*Boleck to governor Coppinger.*

[Translation from the Spanish translation received from governor Coppinger, and communicated by Mr. de Onis, enclosed in his letter of the 27th March, 1818, to the Secretary of State. For the original in English, see No. 49, (court mortal proceedings) No. 2.]

SIR,

I had the honor of receiving your letter of September, but the impossibility of finding a person to write an answer, is the cause of this apparent neglect.

I shall be very happy to keep up a good understanding and correspondence with you, and I hope you will, when occasion offers, advise me of such things as may be of service to myself and my people. My warriors and others who go to St. Augustine, return with false reports, tending to harrass and disturb my people, and prevent them attending to their usual avocations. At one time, the Americans, supported by a force of 3000 men, and such of our brethren, as they have compelled to join them, are running lines far within our territory; at another, they are collecting a large force at fort Mitchell, in the forks of the Flint and Chatahouchie rivers, to fall on the towns that may not join them. Now, Sir, we know of no reason they can have for attacking an inoffensive and unoffending people, whose wish it is to inhabit their woods without disturbing or being disturbed by any one. We have none of their slaves; we have taken none of their property, since they made peace with our good father king George. We have followed the orders of the officer of our father, who was among us, colonel Edward Nicholls, and in no wise molested the Americans, though we daily see them encroaching on our lands, stealing our cattle, and murdering or carrying off our people. We were told by the same officer, that as allies of our father, we were included in the treaty of peace between our good father and the Americans, and that the latter were to give up all the territory that had been taken from us before the war; but so far from complying with the 9th article of that treaty, they are making daily encroachments, and forging treaties, (which they pretend are concluded with our people) for cessions and grants of lands, which never were in existence, and the signatures of which are unknown to the chiefs of the Creek nation, who alone have a right to assign or transfer the common property. The want of a proper person among our people, to acquaint us with these transactions, is the cause of our long silence on them, and leads the world, as well as our friends, to think we are in league with the Americans.

The principal chiefs of the nation assembled lately at my town of Subwahnee, and resolved to inform the minister of king George at Washington of our grievances, and of the conduct and usurpation of the Americans, which was accordingly done, and copies sent to England. Until we have one or more persons among our people to watch over our rights and interests, we shall continue to be exposed to the same conduct on the part of the Americans, whose system appears to be, the destruction of our peace and tranquillity, and expelling us from our native land.

You desire that I would chase off those who steal my cattle, &c. Some of my people have lately driven away several Americans who were endeavoring to settle at Lachua, and I do not doubt they will represent that as an act of hostility, although you well know that Lachua is in the heart of my territory, and was, until the Americans

killed my brother, our chief town. I return you my thanks for your letter,

And am with great respect,

Your most obedient humble servant.

BOLECK, his x mark.

*Chief of the Seminole nation.*

*At Sawhahnee, 18th November, 1816.*

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No. 67.

*Governor Coppinger, to the Chief Boleck (Bowlegs.)*

*Friend and brother Boleck,*

Your letter of the 18th of November was delivered to me yesterday by one of your servants, in which you inform me of the receipt of mine of the 26th September last, and other circumstances which give you and your warriors uneasiness. I see with pain that the whole comes from the information of persons in whom you ought not to place the smallest confidence, it being their principle to employ such opportunities for the purpose of seducing you and your people from their daily labors. In consequence of this, and of what you tell me of your desire, to keep up the best understanding and correspondence with me, and of your hope that the opportunities will not be wanting, let me give you such counsel as may be useful to you, your people and warriors. I will do so from the sentiments of sincere friendship I bear towards you, fearful however that the sentiments of others who came into the territory under the appearance of friendship, but with bad intentions, may influence your minds and obtain your confidence, by their flattering representations. It is ascertained here, that two persons have lately presented themselves as commissioners of the English nation, who have carried off several runaway negroes, belonging to subjects of the king my master, and your friend, among whom was one of Don Francisco Pellicer's, and another of Mr. Bunck's, both inhabitants of this province. This did not seem credible to me, as I could not suppose that so good a friend to our nation as you are, could consent to such proceedings; but in case they have really happened, you will be sensible of their great impropriety and of the just grounds of complaint on the part of the persons so injured, who are desirous, as well as myself of assuring you of the sin-

ere good will and friendship we have for the Seminole tribe of Indians of which you are the chief.

I am with great respect,

Your most affectionate and faithful servant.

[Signed]

JOSE COPPINGER.

*Friend and brother Boleck chief of the Seminole tribe of Indians.  
St. Augustine, in Florida, 20th December, 1816.*

A true copy.

No 68,

*Copy of a sheet of Arbuthnott's Journal, found among his papers.*

October 23d (continued.) They had a long talk with Capt. W. and stopped all night—this day meridian, observed in 29, 21, Suahnach bearing N. E. 3 miles—24th Started with two men in boat to survey if any entrance to the west branch of the river, found all shallow, pulled boat over the mud and entered W. branch—made poles to mark the easternmost outlet, and descended, but could not this day find the direct channel through the oyster bank, the tide having flowed too much—25th At 2 A. M. wind shifted to east, and by 8 A. M. to S. E. when we got under way, and stood off to sea, wind freshening and a nasty short sea rising; at 10 tacked in shore, 3 fathoms—Suahnach N. E. 7 miles, the north point of the bay N. 10 miles, Cedar Keys south 7 miles—from sundown to midnight, heavy squalls with rain and much thunder and lightning; at anchored in 4 fathoms, no wind and heavy swell; 26th first part rainy and squally, at 10 A. M. got under weigh, Cedar Keys just in sight from deck; stood E. N. E. and at 2 P. M. hove too to wait for canoes seen coming off; came to anchor in 2 fathoms, 6 canoes came on board full of Indians and blacks, Billy and Jack among them, with several negroes that were at the Bluff, found that Bowlegs and Doherty had started in a canoe last night; this day at meridian, observation good, 29, 13 Cedar Keys the outermost bearing E. S. E. 6 miles; at 6 P. M. Bowlegs with retinue consisting of 5 canoes, came on board, and continued all night, had a very long talk with Capt. W. 27th. The brother in-law of Bowlegs desired captain W. to listen to what he had heard from the Spaniards, of the Americans intention of attacking them, they wished to live quietly and attend to their cattle &c. but could not for the Americans and revolted Spaniards, who daily killed their cattle

&c. &c. This day bought six D. skins, 16 R. skins and 3 lb. wax, pd. in Tafia. Bowlegs and retinue left me at 2 P. M. Captain W. had started about an hour before for Suahnach, at 8 P. M. began to blow fresh from S. E. continued blowing all night. 28th at 2 P. M. got under weigh and stood to sea. 29th Wind N. W. blowing hard and squally, all day beating off and on, double reefed foresail, reefed main sail &c. at 4 P. M. struck on a shallow bank, 6 miles S. E. from the mouth of the river, bore up and stood off, lowered jib and mainsail, and repaired latter, which had given way near the gal, wore and stood in shore and came to anchor in 1½ feet water, great Cedar Key bearing S. E. 6 miles. 30th, at 7 A. M. got under weigh and stood for the entrance, between the two large Keys, luffing and bearing away so as to keep in 2 fathoms, came to anchor at 9 A. M. a mile and half from Islands, captain went to sound channel, returned and reported channel to the southward and that the large island must be brought to bear N. E. At 11 A. M. a canoe, 2 men, 3 women and their children from Cape Anetole; got under weigh, rounded the bank and grounded between two banks. where we lay all night. 31st Oct. warped into a deep channel with much difficulty, drawing her through the mud, wrote W. and Auchisee Indians, and also fishermen; cut poles to stake out channel. 1st Novem. wind N. E. extremely cold, again warping but did not succeed in getting into anchorage, observed meridian 29, 11, the south end of the great Cedar Key N. W. by N. 5-4 mile; the outer or S. W. point of the high or south Key S. E. and by S. 1-2 miles, lay quite dry at low water, at 10 P. M. floated off, and stood into a good channel, but laying the warp too far out she tailed on the west side where we lay for the night after housing taught our best bower laid in mid channel. 2d. Floated off at 10 A. M. and pulled up to good anchorage, under the lee of the island, boat went to an inshore key, to look for water, and returned two casks full.

3d. Self and captain on shore until half past 11, A. M. caught nothing; observation good, 29, 11; the high part of South Key, due E. two miles; the Sandy beach great cedar Key, W. 1-2 mile; at sundown, captain W. arrived from Suahnack; several canoes with negroes, at the point, captain returned from fishing on point; some good fish. 4th. Idle all day; afternoon prepared rum, sugar, coffee, molasses, to send Robin Creighton, per colored lad named Charles, *see note thereof*; during the night the wind shifted to the N. and N. N. E. drizzling rain and very cold. 5th. Wind N. N. E. rain, and very cold, cleared up before mid day; at 4 P. M. two canoes from Suahnack, one came on board, reported Cappachimico, and all the chiefs waited for captain W.; prepared sundry articles for Sawhanha, and sent canoe off to get Franck's canoe to go with captain W. and self. 6th; at 12, started for Sahwanhee, in Franck's canoe, camped for the night at the little island, mouth of the river; a canoe, with several men and women, with corn, camped at same place, bound for schooner, with corn, &c. 7th. 4 A. M. started up the river, at 8, camped, and breakfasted at Pine Bluff, and at 2 P. M. arrived at Buera land-



ing, took through the pine barren, and lost our way to Christopher Town; again getting to the river, at half past four P. M. arrived at Roberts; captain W. and guide had arrived a little before; visited Cappachimico and M'Queen, at Indian town. 8th. A long talk with Indians, their complaints of the conduct of the Americans; M'Queen mentioned they had taken one of his negroes and confined him in the fort at the Forks. A chief from Chehaw said, that they had killed three Indians in his neighborhood, on their own ground, and taken eleven horses; several others stated losses in cattle and horses, and the Seminole chiefs in particular a chief — of — said, that in confidence of the treaty being faithfully fulfilled on the part of the Americans, a half breed man, named Moses, before the war, settled near the forks, returned to take possession of his fields, and was murdered by the Americans. The chiefs ordered a letter, *in way of memorial*, to be written our ambassador in America, and copies to be sent to England, representing the conduct of Americans; the same was done, agreeably to the substance of their *talk*, read and interpreted to them by their own interpreters, afterwards, each chief put his mark in my presence, which I certified. 9th. Cold and clear, Cappachimico, M'Queen, and the other chiefs, met, and had a long talk, more fully particularizing their particular grievances, they also stated the number of forts, seven, the Americans had built, and the roads they had cut, and were still continuing to cut, within their territory.

M'Queen stated, that M'Intosh and the Coubeta Indians were the cause of the Americans' conduct; that after the peace, a deputation had been sent up to have a talk with the commander at Fort Mitchell, in the forks, who were instructed to inform him of what colonel Nicholls had stated to them, with regard to their rights to territory, prior to the war, being guaranteed by the treaty between England and the U. States; and to request that he, the commandant, would refrain from further encroachments, and give orders that their lands should be respected. The answer they received from the commander was, that it was all true they had told him, but that he had orders to act as he did. A chief of the Fowltown Indians stated, that the American troops returning from the destruction of the fort at Prospect Bluff, burnt one entire town, and murdered several of their people, because they would not join them when going down the river. The Tiger Warrior, and two other men of note, spoke, stating the circumstances of aggression and cruelty that had come to their knowledge. Cappachimico, M'Queen, and the others, further stated what reports they had from Doyle, Hambly, &c. and all were of opinion, and firmly believed, that Hambly, a clerk to, and influenced by Forbes, was the cause of the destruction of the fort at the Bluff; and that Hambly went down the river as a guide to the American army; and was particularly instrumental in its being blown up, as he pointed out to the American officers where the magazines were placed, that they might play their shells against them. Such few negroes as were

saved from the explosion unhurt, were carried off by the Americans, with cannon, ammunition, arms, &c. that was found in the fort.

N. B. I take no notice of captain W's talk to the Indians, because I doubt much of what he stated was not founded in fact, and was only mentioned by him to strengthen the chiefs in their attachment to the British government. I say no further on this head. Of his promises, I fear he has also gone too far; and perhaps at a future time, when the Indians find them *unperformed*, the rage for their disappointment may fall on me, as a party aiding and abetting captain W. in his deception. I have gone beyond my promise to captain W. I have been deceived in almost every thing; and yet he thinks *every thing*, and person, must be subservient to him. I have had himself and *aid-de-camp* on board since the 31st August; in any expedition, in canoe or boat, I have supplied his wants. I kept three negroes on board more than two months, on his account. I presented the chiefs for him, and on his account. I have seen my provisions taken and given away, when we were on short allowance; for captain W. gives liberally when it is not out of his own pocket, but is extremely costive when any thing is wanted from home.

10th. Cappachimico and M'Queen gave me a note of the most necessary articles they wanted immediately, and which I promised them to bring, if possible, by the end of December, and land them as agreed. Gave them a card, with seals, &c. &c. as a token that when they received a messenger with the duplicate thereof in *R. W.* that he came with the straight talk from me, made each a present of rum, sugar, coffee, and 100 segars. Also, the Tiger Warrior and two others, and the rest, had a good lot of segars each, gave them a parting glass; took leave at 12 mid day. They all started on horseback. The two deputies that go to Nassau with me left behind.

These men are children of nature; leave them in their forests to till their fields, and hunt the stag, and graze their cattle, their ideas will extend no farther; and the *honest* trader, in supplying their moderate wants, may make a handsome profit of them.

They have been ill-treated by the English, and robbed by the Americans, cheated by those who have dealt with them, receiving goods and other articles, at most exorbitant prices, for their peltry, which has been much undervalued. I say the English ill-treat them: after making them parties in the war with America, they leave them without a pilot. to be robbed and ill-treated by their natural and sworn enemies, the Americans. When the English officer, col. Nicholls, left Prospect Bluff, on the Apalachicola river, he left particular orders with Cappachimico and the other chiefs, not on any account to enter on the territory of the Americans; while at the same time he informed them, the Americans were to give up that territory they had taken possession of during the war; but while he informed the Indians how they should act, and what the Americans were to do in compliance with the treaty, he left no person to guide them in their conduct, in case the latter should not comply, or continue to extend

their encroachments, and commit aggressions. When such was the case they had none to represent their case to the British government, but William Hambly, the clerk of John Forbes, and Doyle, another of his clerks, both of whom had long before the conclusion of the war sold themselves to the American government, and while they were receiving *British pay*, acted as spies to the Americans; these persons were not likely to represent the conduct and encroachment of the Americans in their true light. No, they attempted to influence the chiefs to join the Americans. Doyle stated in a talk at St. Marks, that in four years no Englishman durst set his foot in Floridas, yet these were the only persons to whom the poor untutored Indian could apply, to represent their grievances to the British government, or any governor of their islands, and it was not likely they, the tools of the Americans, would give a just and true account of the Indian grievances. Hambly, the Indian interpreter, was ordered to write to the governor of New Providence, demanding his interference; and by an intercepted letter from his brother, dated at Regla, in February last, it appears he had written a letter to New Providence, but to whom—

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No. 69.

*Arbuthnott to the commanding officer at fort Gaines.*

*Okolokne Sound, 3d March, 1817.*

*To the officer commanding fort Gaines,*

SIR,

I am desired by Peter M<sup>c</sup>Queen, an unfortunate chief, who was some years since obliged to fly from his town of Tucky Bathe, on the Tallapoohatche river, to claim of your friendship, the delivery of a negro man named Joe, (taken away from him since the peace) which he states to be in fort Gaines. When M<sup>c</sup>Queen left Tucky Bathe, his property was considerable, both in negroes and cattle, of the former, ten grown negroes were taken by a half breed man, named Barney, nine of which he learns were sold, and one, a girl, is still in possession of said Barney. Twenty able negroes were taken by a chief named Colonel, *or* Auchi Hatche, who acts also as an interpreter; and as he never had possession of any of those persons' property, nor ever did them any injury to his knowledge, he claims a further proof of your friendship, that you will use your influence in procuring those negroes for him; and, should they be given up by the persons holding them, there is one faithful negro among them, named Charle, who will bring them to him at Okolokne river.

The American head men and officers that were accustomed to live near him, can testify to his civility and good fellowship with them, and there are none of them, he is convinced, that would not serve him, if in their power; as he owes nothing, nor ever took any person's property. *none* have a right to retain his, and he hopes that through your influence, those persons now holding his negroes, will be induced to give them up.

While I am thus advocating the cause of one unfortunate individual, allow me to claim an extension of your philanthropy to all the Indians within your circle, by your representing to them the folly of their quarrels, and that they ought to live quietly and peaceably with each other.

The lower Creeks seem to wish to live peaceably and quietly, and in good friendship with the others; but there are some designing and evil minded persons, self interested; who are endeavoring to create quarrels between the upper and lower Creek Indians, contrary to their interest, their happiness, and welfare; such people belong to *no* nation, and ought not to be countenanced by any government.

The head chiefs request I will inquire of you, why American settlers are descending the Chattahoochie, driving the poor Indian from his habitation, and taking possession of his home and cultivated fields.

Without authority, I can claim nothing of you; but a humane and philanthropic principle guiding me, I hope the same will influence you, and if such is really the case, and that the line marked out by the treaty of peace between Great Britain and the United States, respecting the *Indian nations* has been infringed upon by the subjects of the latter, that you will represent to them their improper conduct, and prevent its continuance.

I hold in my possession a letter received from the governor of New Providence, addressed to him by his Britannic majesty's chief secretary of state, informing him of the orders given to the British ambassador at Washington, to watch over the interests of the Indian nations, and see that their rights are faithfully attended to, and protected agreeably to the treaty of peace, made between the British and Americans.

I am in hopes that ere this, there is arrived at New Providence, a person from Great Britain, with authority to act as agent for the Indian nations, and if so, it will devolve on him, to see that the boundary lines, as marked out by the treaty, are not infringed upon.

I hope you will not think these observations, *made by desire of the chiefs*, any improper interference, and requesting the favor of an answer,

I am respectfully, sir,

Your obt. servant,

[Signed]

A. ARBUTHNOTT.

P S. M'Queen states, that the offspring of the negroes, when he left Tucky Batche, were seven of those taken by Barney, and nine of those taken by Auche Hatchi, and he supposes they have increased.

No. 70.

*A. Culloh to Arbuthnott, (answer to No. 69.) found among Arbuthnott's papers.*

*Fort Gaines, 1st May 1817.*

DEAR SIR,

On being informed by the commanding officer, that you had written in behalf of Peter M'Queen, for a negro man once in the possession of myself at this place, requiring the return of said negro to (as you said) the rightful owner; I take the liberty of informing you, that the said negro is now at Fort Hawkins, Oakmulgee river, claimed by an American citizen by the name of Bowen White; he remained with us, he was a deposit of some of the Indians, to be given to the said Bowen when called for. Further of his origin, or manner in which he was claimed as property, I can't tell any thing of. You inquired why citizens were descending this river. In answer I say, in right of, and conformably to a late treaty between the United States and the Creek nation; for this part of the territory was ceded to us as compensation for expenses and aid furnished and incurred by the friendly Creek Indians, against M'Queen and his party; not having any reference, or touching at any article or part of the treaty between the United States and Great Britain. As to M'Queen's having any claims on the good feeling and philanthropy of any citizen of the United States, is mock and farce; on the contrary he has incurred both the ill will and hatred of his own people and them, and has in fact, been the cause of the destruction and loss of his native country.

Your obdt. Servt.

[Signed]

AM. CULLOH.

*A. Arbuthnott,  
Oakalokiny Sound, Florida Keys.*

## No. 71.

*Copy of a paper without date or signature, found among Arbuthnott's papers—supposed to be the answer to No. 4 in the proceedings of the court martial on the trial of Arbuthnott.*

It is not in my power to comply with your wishes, without the king's command, but you may be assured that I shall lose no time in submitting the representation you have now made to the consideration of his majesty's government.

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 No. 72.

*A. Arbuthnott to Gen. Mitchell, agent of Indian affairs.*

*Sahwahnee, Lower Creek Nation, 19th Jan. 1818.*

SIR,

Kenhijee, head chief of the Lower Creek Nation, has called on me to request I would represent to you the cruel and oppressive conduct of the American people living on the borders of the Indian nation, and which he was in hopes, from a talk you were pleased to send him some weeks since, would have been put a stop to, and peace restored between the Indians and the American people; but far from any stop being put to their inroads and encroachments, they are pouring in by hundreds at a time, not only from the land side, but both troops and settlers ascending the Apalachicola river in vessel loads. Thus the Indians have been compelled to take up arms to defend their homes from a set of lawless invaders.

Your known philanthropy and good will towards the Indians in general, induces the chiefs to hope that you will lose no time in using your influence to put a stop to those invasions of their lands and paternal birth-right, and also order that those who have already seized on their fields may retire therefrom. The Indians have seized two persons known to have been greatly instrumental in bringing the Americans down on their lands, and they are now in their possession as prisoners: and they have it in report that sales of their lands have been made by those two people, without the consent, approbation, or knowledge, of the chiefs; and from their long residence in the nation, and the one having enjoyed great confidence in the nation and with the chiefs, as English interpreter, there is some reason to believe these reports, when leagued with the swarms of Americans

coming from Mobile and other places, seizing the best of the Indian lands. Such improper sales have actually been made.

In taking this liberty of addressing you, Sir, in behalf of the unfortunate Indians, believe me I have no wish but to see an end put to a war, which, if persisted in, I foresee, must eventually be their ruin; and as they were not the aggressors, if, in the height of their rage they commit any excesses, that you will overlook them, as the just ebullitions of an indignant spirit against an invading foe.

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

[Signed]

**A. ARBUTHNOTT.**

*By order of Kenhijee and Bowlegs,  
acting for themselves and the other chiefs.*

---

*Camp before St. Marks, April 8th, 1818.*

The foregoing letter was produced to A. Arbuthnott, on his examination before me, and acknowledged by him to have been written by him to Gen. Mitchell, agent of the Creek nation.

(Signed)

**ANDREW JACKSON.**

*Present, Mr. Fulton.*

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## SUPPLEMENTARY DOCUMENT.

*Received since the Letter to Mr. Erving was forwarded.*

[From the Public Ledger and Daily Advertiser, a London Newspaper, of August 27, 1818.]

**MR. ARBUTHNOTT.**

The following letters, in addition to those already made public, tend to show the deep interest which this unfortunate gentleman took in procuring redress for what he conceived to be the unprovoked aggressions of the American back settlers, on the Indian boundary line,

*A. Arbuthnott to the commanding Officer at Fort Gaines.*

*Okolokne River, March 3d, 1817.*

[This is an extract from the letter No. 69 in this collection, p. 210 consisting of the four paragraphs before the last, which is omitted. See the document No. 69, and the answer to it, No. 70]

*Copy of a talk sent from the British Agents in East Florida, to the Big Warrior, head chief of the Creek nation of Indians.\**

“When the English made peace with the Americans, they included the whole of the Indian nations, viz: Creek, Choctaw, Chickasaw, and Cherokee. Those nations were guaranteed in the quiet possession of their lands, and the Americans engaged to give up such lands of the Indians as they had taken possession of during the war.

“If they have not done so, or if they have been making further encroachments, the chiefs have only to represent their complaints, and the aggressions of the Americans to the governor of New Providence, who will forward them to England, or get them conveyed to the British minister at Washington, who has orders from the king of England, to see that the rights of the nations abovementioned are protected, and the stipulations contained in the treaty, *in their favor*, are faithfully carried into execution.

“The Americans have no wish to go to war; they will not, therefore, do any thing contrary to the treaty; and what encroachments have been made, must be without the knowledge of the chief of the American government; and so soon as he is informed thereof by the British minister at Washington, he will order the American people who have taken possession of Indian lands to draw back to their own possessions.

“The Indian nations are all one great family; they possess lands their great forefathers handed down to them, and they ought to hand them down entire to their children. If they sell their land, what do they receive for it? Nothing that will last. It is wasted away in a few years. Whether, therefore, they sell or give it away, they are robbing their children of the inheritance they had a right to expect. As a great family, they ought to live as such with each other. Let the four nations join in bonds of brotherly love; let them smoke the pipe of peace; let the cultivation of their lands be their chief object during spring and summer, and hunting their diversion during winter; and the produce of their labor will be bought by good people, who will come and deal with them, when they know there is any thing to be purchased for goods or money.

\* [This appears to be the same talk, with the letter to the Little Prince, mentioned in the proceedings of the court martial on Arbuthnott's trial.]



“If the Americans or other nations live near them, let them live in friendship with them, and keep up a good understanding, but on no account sell or give away any of their lands. I recommend this as a friend of humanity, and of good order.

“(Signed) A. ARBUTHNOTT.

“*Okolokne, March 11, 1817.*”

“The head chiefs of the upper Creek nation have desired me, Oponey, to get the straight for them; what is written in the foregoing I believe to be the true and straight talk received from an Englishman,\* who carried two deputies to *New Providence*, and has returned with them to *Okolokne*. I, Oponey, have been sent by you, the head chiefs of the upper Creek nation, to see the Seminole Indians. I have done so; they live quietly and peaceably, and wish to do so, with all their red brethren, in every part of the nation.

“Opoy Hatcho has desired me to see those things; I have done so; and see all quiet, and had the talk I now send you, and shaken hands with the friend who gave it me.

“That the friend I have met came over with goods, by desire of the chiefs of the lower towns, and is a true friend to the Indians. The various and untrue talks that you sent me, from time to time, must be made by some person an enemy to us all red brethren, and ought not to be listened to; let me know who they are, and send me an answer as soon as possible to the present talk.

(Signed)

his  
OPONEY, ✕  
mark.

Written by order of the aforesaid Oponey, the 11th of  
March, 1817. (Signed) A. ARBUTHNOTT.

Witness—(Signed) *Aaron Morris*.

\* [See Arbuthnott's Journal, No. 68. p. 205.]



[75]

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A PROCLAMATION OF A CONVENTION,

BETWEEN

THE UNITED STATES AND SPAIN,

TOGETHER WITH

THE TRANSLATION OF A LETTER FROM THE MINISTER OF SPAIN,

TO

*THE SECRETARY OF STATE.*

---

JANUARY 5, 1819.

Read, and ordered to lie upon the table.

---

WASHINGTON:

E. DE KRAFFT, PRINTER.

1819.

MAY  
1858

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1858

*Washington, 4th of January, 1819.*

*To the House of Representatives of the United States:*

I transmit to Congress, a Proclamation dated the 2<sup>d</sup> of last month, of the Convention made and concluded at Madrid, between the Plenipotentiaries of the United States and his Catholic Majesty, on the 11th of August, 1802, the ratifications of which were not exchanged till the 21st ultimo, together with the translation of a letter from the Minister of Spain to the Secretary of State.

JAMES MONROE.

The first part of the paper is devoted to a general  
 consideration of the subject, and to a discussion of the  
 various theories which have been advanced to explain  
 the phenomena observed. It is shown that the  
 results of the experiments are in general in  
 accordance with the theory of the  
 author, and that the  
 experiments of other authors are  
 in general in accordance with  
 the theory of the author.

APPENDIX

This appendix contains a list of the  
 names of the persons who have  
 been consulted in the preparation  
 of this paper, and a list of the  
 books and papers which have  
 been consulted in the preparation  
 of this paper. It also contains  
 a list of the names of the  
 persons who have been consulted  
 in the preparation of this paper,  
 and a list of the books and  
 papers which have been consulted  
 in the preparation of this paper.

BY THE PRESIDENT OF THE UNITED STATES,

A PROCLIMATION.

WHEREAS, a Convention between the United States of America and his catholic majesty, made and concluded at Madrid, on the eleventh day of August, in the year one thousand eight hundred and two, by Charles Pinckney; at that time minister plenipotentiary of the United States in Spain, and Don Pedro Cevallos, counsellor of state, gentleman of the bed, chamber, first secretary of state, and superintendent of posts and post offices, fully authorized and empowered by their respective governments, was duly ratified by the then President of the United States, by and with the advice and consent of the Senate thereof, on the ninth day of January, in the year one thousand eight hundred and four; and was ratified by the King of Spain, on the ninth day of July last past: And whereas, the ratifications of the two governments were exchanged, in this city, on the twenty-first day of December, by John Quincy Adams, Secretary of State of the United States, on the part of the United States, and Don Luis de Onis, envoy extraordinary and minister plenipotentiary from Spain, on the part of Spain; which convention is, word for word, as follows:

Convencion entre su Magestad Catolica y los Estados Unidos de America, sobre indemnizacion de perdidas, danos y perjuicios irrogados durante la ultima guerra en consecuencia de los excesos cometidos por individuos de ambas naciones, contra el derecho de gentes o tratado existente.

Deseando su Magestad Catolica y el gobierno de los Estados Unidos de America, ajustar amistosamente las demandas que han ocasionado los excesos cometidos durante la ultima guerra, por individuos de una y otra nacion, contra el derecho de gentes o el tratado existente entre los dos paises; ha dado su Magestad Catolica plenos poderes a este efecto a Don Pedro Cevallos, su Consejero de Estado, Gentilhombre de Camara con exercicio, primer

A Convention between his catholic majesty and the United States of America, for the indemnification of those who have sustained losses, damages, or injuries, in consequence of the excesses of individuals of either nation, during the late war, contrary to the existing treaty, or the laws of nations.

His catholic majesty, and the government of the United States of America, wishing amicably to adjust the claims which have arisen from the excesses committed during the late war, by individuals of either nation, contrary to the laws of nations or the treaty existing between the two countries: His catholic majesty has given, for this purpose, full powers to his excellency Don Pedro Cevallos, counsellor of state, gentleman of the bed chamber in employment,

Secretario de Estado y del despacho universal, Superintendenté General de Correos y Postas en España e Indias; y el gobierno de los Estados Unidos de America a Don Carlos Pinckney, ciudadano de dichos Estados y su Ministro Plenipotenciario cerca de su Magestad Catolica. quienes han convenido en lo siguiente.

1o. Se formara una junta compuesta de cinco vocales de los quales, dos seran nombrados por su Magestad Catolica, otros dos por el gobierno de los Estados Unidos, y el quinto de comun consentimiento; y en el caso de no poderse convenir en el sugeto para quinto vocal, nombrara una cada parte dexando la eleccion entre los dos a la suerte, y se procediera en la misma forma en adelante al nombramiento ulterior de los sugetos que reemplazaren a los que actualmente lo son en los casos de muerte, enfermedad o precisa ausencia.

2o. Hecho asi el nombramiento prestara cada uno de los vocales el juramento de examinar, discutir, y sentenciar las demandas sobre que juzgaren con arreglo al dro, de gentes y tratado existente, y con la imparcialidad que dicta la justicia.

3o. Resideran los vocales y celebreran las juntas en Madrid, en donde en el prefixo termino de diez y ocho meses, contados desde el dia en que se junten, admitiran todas las demandas que a consecuencia de esta Convencion hicieren tanto los vasallos de su Magestad Catolica como los ciudadanos de los Estados Unidos de America, que tuvieren derecho a reclamar perdidas, danos y perjuicios, en consecuencia de

first secretary of state and universal despatch, and superintendent general of the posts and post offices in Spain and the Indies; and the government of the United States of America to Charles Pinckney, a citizen of the said states, and their minister plenipotentiary near his catholic majesty, who have agreed as follows:

1. A board of commissioners shall be formed, composed of five commissioners, two of whom shall be appointed by his catholic majesty, two others by the government of the United States, and the fifth by common consent; and in case they should not be able to agree on a person for the fifth commissioner, each party shall name one, and leave the decision to lot: And hereafter, in case of the death, sickness, or necessary absence of any of those already appointed, they shall proceed in the same manner, to the appointment of persons to replace them.

2. The appointment of the commissioners being thus made, each one of them shall take an oath to examine, discuss, and decide on the claims, which they are to judge, according to the laws of nations and the existing treaty, and with the impartiality justice may dictate.

3. The commissioners shall meet and hold their sessions in Madrid, where, within the term of eighteen months (to be reckoned from the day on which they may assemble) they shall receive all claims, which in consequence of this convention may be made, as well by the subjects of his catholic majesty, as by citizens of the United States of America, who may have a right to demand compensation for the losses, damages,



los excesos cometidos por Espanoles y ciudadanos de dichos Estados durante la ultima guerra contra el dro de gentes y tratado existente.

4º. Se autoriza por dichas partes contratantes a los vocales para oír y examinar baxo la sancion del juramento qualquiera puntos concernientes a las referidas demandas y a recibir como digno de fe todo testimonio de cuya autenticidad no puede dudarse con fundamento.

5º. Bastara el acuerdo de tres vocales para que sus sentencias tengan fuerza de irrevocables y sin apelacion tanto por lo que respecta a la justicia de las demandas, como por lo que hace a las cantidades que se adjudicaren p'r indemnizacion a los demandantes; pues se obligan las partes contratantes a satisfacerlas en especie, sin rebaxa, en las espocas y parages señalados, y baxo las condiciones que se expresaren en las sentencias de la junta.

6º. No habiendo sido posible ahora a dhos Plenipotenciarios convenirse en el modo de que la referida junta arbitrase las reclamaciones originadas en consecuencia de los excesos de los corsarios, agentes, consules, o tribunales, extrangeros en los respectivos territorios, que fueren imputables a los dos gobiernos: se han convenido expresamente en que cada gobierno se reserve, como por esta convencion se hace, para si, sus vasallos y ciudadanos respectivamente todos los derechos que ahora les asistan, y en que promuevan en adelante sus reclamaciones en el tiempo que les acomodare.

or injuries sustained by them, in consequence of the excesses committed by Spanish subjects or American citizens.

4. The commissioners are authorized, by the said contracting parties, to hear and examine, on oath, every question relative to the said demands, and to receive, as worthy of credit, all testimony, the authenticity of which cannot reasonably be doubted.

5. From the decisions of the commissioners there shall be no appeal, and the agreement of three of them shall give full force and effect to their decisions, as well with respect to the justice of the claims, as to the amount of the indemnification which may be adjudged to the claimants; the said contracting parties obliging themselves to satisfy the said awards in specie, without deduction, at the times and places pointed out, and under the conditions which may be expressed by the board of commissioners.

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

7o. La presente convencion no tendra ningun valor ni efecto hasta que se haya ratificado por las partes contratantes, y se cangearan las ratificaciones lo mas pronto que sea posible.

En fe de loqual, nosotros los infrascriptos plenipotenciarios, hemos firmado esta convencion, y hemos puesto nuestros sellos respectivos.

Hecho en Madrid, a 11 de Agosto, de 1802.

[L. s.] PEDRO CEVALLOS.

[L. s.] CHARLES PINCKNEY

7. The present convention shall have no force or effect, until it be ratified by the contracting parties, and the ratifications shall be exchanged as soon as possible.

In faith whereof, we, the underwritten plenipotentiaries, have signed this convention, and have affixed thereto our respective seals.

Done at Madrid, this 11th day of August, 1802.

[L. s.] PEDRO CEVALLOS.

[L. s.] CHARLES PINCKNEY.

Now, therefore, be it known, that I, JAMES MONROE, President of the United States, have caused the said Convention to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled, with good faith, by the United States, and the citizens thereof.

In testimony whereof, I have hereunto set my hand, and caused the Seal of the United States to be affixed. Done at the City of Washington, this twenty-second day of December, in the year of our Lord one thousand eight hundred and eighteen, and of Independence the forty-third.

JAMES MONROE.

*By the President:*

JOHN QUINCY ADAMS,

*Secretary of State.*

## (TRANSLATION.)

*Don Luis de Onis to the Secretary of State.*

SIR,

I have had the honor to receive your note of the 30th ultimo, in reply to mine of the 24th of the same month, by which, I perceive with great concern, the failure of the flattering hope I had formed of seeing a speedy and amicable termination of the differences existing between our respective governments. But I leave to those who may impartially inquire into the state of things, their origin, nature, and all the circumstances hitherto attending them; to those who form their judgments upon the principles of justice, the dictates of conscience, and the most established rules of human reason, whether, on my part, I have not done even more than could be hoped for, at once to terminate a controversy, no less unpleasant, than it is injurious to the interests of both nations.

It was painful to H. C. Majesty's government to find, that the differences which originated in the pretensions first formed by the United States, in the year 1805, were not then definitively settled, but, the tenaciousness of the American plenipotentiaries in maintaining them, and their refusal to accede to those advanced by his majesty, in conformity with the most inviolable duties of his royal crown, as a preliminary to the ratification of the convention of 1802, threw insurmountable obstacles in the way of both; these obstacles still existed on the part of the United States, at the period of the revolution in Spain, in 1808. From that time, and until the latter part of 1815, you are aware, sir, that the government of the United States declined to acknowledge H. C. Majesty's minister, and that the diplomatic intercourse between the two powers was interrupted. From the moment your government resolved on changing its course, and receiving the minister of Spain, my government has employed the most unceasing efforts to adjust all existing differences, and establish on a just and solid basis the most perfect harmony and lasting friendship. For this I appeal to the correspondence between H. C. Majesty's minister of state, and the plenipotentiaries of the United States at Madrid; and to that I have had the honor to carry on here with yourself and your predecessor. I leave it to the judgment of any impartial person who may be disposed to analyze it, rejecting whatsoever is irrelevant or unfounded, to determine, who has reason and justice on his side, and decide, whether it is possible that any nation in the world, similarly situated, could act with greater generosity and good faith than Spain, or offer greater sacrifices to meet the wishes of the United States, with a view to putting an end to the controversy between them.

As you stated to me in your note of 31st of October last, that the proposals you then made me by order of your government, comprehended every thing which the President conceived it possible, within the compass of his powers and duty, to offer for the final arrangement of the pending differences, I endeavored, in my letter of the 16th of November last, to modify the proposals made in yours of the 31st October, and approximate them to yours to the utmost extent of my powers. I even expressed my earnest desire to conclude the negotiation, so far as to admit the removal of the boundary line, from the Gulf of Mexico, on the river Sabine, as proposed by you, and I only added, that it should run more or less obliquely to the Missouri, thereby still keeping in view the consideration of conciliating the wish that your government might have of retaining such other settlement as might have been formed on the bank of that river, and observing, nevertheless, that it was not to pass by New Mexico, or any other provinces or dominions of the crown of Spain. Notwithstanding this, and the further advantages offered in the said proposals, I now observe that they still appear insufficient to meet the wishes and views of your government, which is the more a subject of regret to me, as the reasons and grounds on which I founded a hope of a different result, were, and still are, of the greatest weight.

What you now state, namely, that your proposal relative to the western boundary between the two powers, involved a great sacrifice on the part of the United States, in favor of Spain, appears incomprehensible to me. That proposal, even modified and adapted to that which I made to you on the 24th of last month, included in favor of the United States, a considerable extent of territory to the right and left of the Mississippi, to which they neither had nor can have any right whatever; and that fact being, as assuredly it is, beyond all contradiction or doubt, I cannot conceive in what consists the sacrifice made by the United States to Spain, in the proposal offered by you. In fact, how can it be denied that Spain has ever been in the peaceable possession of all the countries lying to the westward of the Mermentau, the boundary between the Spanish dominions and those of France, in that quarter, being a line running due north from the said river to the river Roxo (Red river) between the Adaes and Natchitoches, and thence to the Missouri, although it was not exactly determined, whether it was to ascend until that river emptied into the Mississippi, or to some other point? Has the government of France, peradventure, ever taken any step, or contested with H. C. Majesty's crown, or carried her pretensions beyond those limits? Is it not universally notorious that this dividing line was always respected by both nations, and that even after the acquisition of Louisiana by the United States, the different governors of Louisiana and Texas, with a view to avoid disputes, came to an agreement to consider the territory between the Mermentau and the Sabine, as neutral, and that it should remain unsettled? Is there the least probability that the United States would propose such an arrangement if they conceived them-

selves to be the owners of the immense country lying between that river and the Rio del Norte? I cannot but think you must admit these facts. As to the other points of the frontier separating the possessions of both powers, they are equally well known, being accurately determined and defined in solemn treaties, and particularly in that of 1795, between Spain and the United States. The dividing line between the dominions of the two powers to the eastward of the Mississippi, was fixed on that river at the northernmost part of the 31° of north latitude, running thence due east to the mid-stream of the river Apalachicola or Catahouchie; thence along the mid-stream of that river to its junction with the Flint; thence in a right line to the head waters of the St. Mary's river, and following the course of the same to the Atlantic ocean. On the side of the Gulf of Mexico the line has also been accurately determined, so as to prevent its ever being confounded or misunderstood. It follows the course of the Mississippi, to the Iberville, running through it, and the lakes Maurepas, Pontchartrain, and Borgne, to the Gulf of Mexico. In opposition to facts of such notoriety, unfounded assertions can have no weight. The offer of the United States, made through the medium of the French government, to acquire of Spain the territory lying between the Mississippi and the Perdido, at the time the United States were already in possession of Louisiana, is an additional proof tending to demonstrate the certainty and notoriety of the boundaries I have just alluded to; and the French government, which sold Louisiana to the United States, solemnly declared to this government, in a note addressed to Mr. Monroe, dated the 21st December, 1804, not only what was its extent, but that it had delivered that province to the United States, such as Spain had retroceded it to France, and that so far from having sold to this republic any part of the territory east of the Mississippi, known and possessed by England and by Spain under the name of West Florida, his imperial majesty, with a full knowledge of what belonged to H. C. Majesty, early in the 11th year of the republic, authorized general Bournonville, his ambassador at Madrid, to open a negotiation with Spain, for the purchasé or cession of the Floridas. From what I had just pointed out, as well as from what I have repeatedly stated in the course of our correspondence, it evidently follows that the real and unquestionable sacrifice was that made by H. C. M. in favor of the United States, as expressed in the abovementioned proposal.

The continued persistence of your government in its pretensions to all the territory lying between the Mermenta and the river Bravo del Norte, is not sufficient to invalidate the titles of property and possession which establish the right and dominion of Spain therein, when the English colonies, composing the republic of the United States, were not yet in existence, nor the French settlements which serve as the pretext for the amazing pretensions of your government. For, what titles and proofs have been produced to justify them? The disastrous expedition of M. de la Salle; the absurd grant in favor of

Crozat; and the erroneous narratives of travellers, with maps formed at pleasure, by uninformed, or interested geographers, such as Melish, and others; who run their lines as they were dictated to them, and thus disposed of the dominions of Spain as suited their wishes. When did La Salle enter the Rio Bravo, and take possession of the extensive countries between it and the Sabine? Was not his expedition the sole object of which was to discover the mouths of the Mississippi, lost on the coast of the province of Texas? Did not the Spanish troops immediately advance from Mexico to expel these adventurers? What establishment did France, or any other nation, ever hold on the Bravo or the Colorado? The grant of Louis 14th, no less contemptible than the tales and fables of the missionary Hennepin; will it, perchance, name the river Bravo, the Colorado, or the Columbia? It only makes mention of the Mississippi, or river of St. Louis, and of the waters emptying therein; and if, under the sanction of that grant, it were allowable to include, without reserve, all the lands washed by those waters, or all those which might come in contact with them, it would perhaps be no difficult matter to extend that pretension to the remotest rocks of Patagonia, and even to the south pole.

I have demonstrated, by the most abundant evidence, what are the unquestionable boundaries which divide the Spanish possessions from those of this republic; and notwithstanding, nothing has been produced by the United States to establish their pretensions; and that the rights of Spain have hitherto been acknowledged and notorious, without any power ever having disputed the property which she has, and always has had, since the 16th century, in the aforesaid territories, the government of his catholic majesty is, and at all times has, been ready to produce the titles and documents in support of its rights, for the greater conviction and satisfaction of your government, and for the impartial comparison of them with those which may be presented by the United States. You have declined these, in consequence, as you inform me, of the order you have received from the President, which only requires that I should subscribe to what he has been pleased to decide on; and in case I do not agree to this, nothing further is wished to be heard in support of the rights of Spain; and that your government retracts the proposals it has made for the adjustment of the question of boundaries. In consequence of so peremptory and categorical a declaration, and of proposals which have never been advanced in the course of the present negotiation, until your letter of 31st October last, to which it is impossible I should yet have received an answer from my court, I had no other alternative *than* to transmit a copy of your letter to my sovereign, which I have done by the secretary of this legation; and it will be very satisfactory to me, to learn that his majesty, animated as he is by the most lively desire to terminate these matters amicably; and on being informed that we are already agreed upon all the other points, may, in his wisdom, find means to conciliate the wishes of the United States with the interests and dignity of his crown. In the mean

while, it is necessary I should inform you, that as the proposals made to me in the name of the President, are, as you signify, no longer obligatory, in like manner do those cease to be obligatory which I have made to you, by the order of my government; and that, consequently, the rights of the crown of Spain are entirely free as to whatsoever appertains to it.

I cannot, however, refrain from expressing to you my inability to comprehend, upon what grounds the United States decline the proposal of submitting the pending differences, in their actual state, to the judgment and decision of one or more friendly powers, in whom the United States may place full confidence. I have read with the greatest attention the note referred to by you, and I candidly confess that I have continued in the same uncertainty. When two nations cannot meet on points upon which they may disagree, a spirit of equity, and the love of justice require, and the law of nations points out, a recourse to the arbitrament of an impartial third party. This maxim, so deserving of respect, was adopted by the United States themselves, on the occasion of their acceptance of the mediation of Russia in their differences with Great Britain; and also on that of their agreement with the latter power, to submit to arbitrament whatever difficulties might arise in the settlement of their boundaries. A similar course has been adopted by all nations under similar circumstances; and in fact, what mode is there, when two nations (or two individuals in particular cases) cannot agree upon a certain point; each one conceiving they have reason and justice on their side; but to submit the question to the impartial judgment and decision of a third party, chosen to their mutual satisfaction? Spain, convinced that this mode was the fairest and most expeditious, was anxious to adopt it, with all the sincerity and good faith which have characterized her; and in the event of its not being adopted, through the unalterable opposition of your government, there can be no room for apprehension or regret, as to the opinion which will be formed by the impartial world on this point.

In reference to what you state respecting the transmission, by order of the President, to the minister of the United States at Madrid, of all the evidence and documents relative to the conduct of the governor of Pensacola, and the commandant of St. Marks, with instructions to lay them before his catholic majesty's government; and the demand, in consequence of the nature of the facts therein exhibited, of the condign punishment of those officers; I abstain from offering further proofs in addition to those I have already presented, of the good conduct, honorable proceeding, and strict discharge of duty, on the part of those individuals, acting under the authority of the king my master, and in conformity with the existing treaty between the two nations; as the opportunity will be afforded of examining and comparing at Madrid the evidence adduced by Mr. Erving, with that which my government has received, or may receive, from the au-

thorities whose duty it is to transmit it. If, upon such examination and comparison, it should appear that the governor of West Florida, and his officers, have conducted themselves improperly, I am confident that due punishment will be inflicted on them; and if, on the other hand, the American general and officers should be found to have acted in an unjustifiable manner, the United States cannot hesitate to proceed against them, nor to indemnify Spain for the losses and injuries sustained in consequence of the aggression complained of.

With respect to the conduct of general Jackson in the invasion of Florida, and the excesses committed there, in violation of the sovereignty and dignity of a friendly power, as they are public and notorious, and sufficiently reprobated by public opinion; and as they are identified with the subject which has just been referred to, I likewise abstain from answering the arguments by which you have endeavored to justify that officer, in the note I have the honor to reply to. Whatever may be the causes which, in the view of your government, justified the war against the Seminoles, you cannot fail to admit how improbable it is, that those miserable Indians, feeble and wholly destitute as they are, could have provoked it. In the letter of the chief, Boleck, to the governor of St. Augustine, of 29th Decémber, 1816, copy of which I had the honor to transmit you on the 27th of March last, you must have remarked, that he speaks of assassinations, carrying off of men and cattle, usurpations of his territory, and even forging of treaties for the cession of lands, signed or marked by the names of persons unknown to the chiefs of the Creek nation; who, he adds, are alone authorized to transfer the general property; of all which he accuses the Americans. Besides, the friendship and good understanding existing between the two nations, and the treaty itself, on the authority of which the measures of general Jackson are supported, decisively required, that any complaints which there might be against the Indians, should be laid before his majesty's government, or before his minister near this republic, previous to the adoption of violent measures, as it was scarcely possible that those excesses could be restrained by his majesty so long as he remained ignorant of them, and was only informed of the complaints of the continual vexations exercised towards the miserable Indians by the citizens of this Union.

I refrain from attempting any refutation of your remarks on the admission by the Spanish governor of Florida, of two English traders into that province, without orders from his catholic majesty's government, or without notifying general Jackson thereof. It is evident, that if he admitted them by order of the king's government, he was under no obligation to notify the American general of it; and if he admitted them without the necessary order, he was solely responsible to his sovereign for his conduct. The unquestionable fact is, that general Jackson, at the head of his army, fell upon Florida as a haughty invader and conquerer, regardless of the laws of humanity, and the feelings of nature, and put to a cruel death two foreigners,



who there enjoyed the protection of Spain, and an asylum which has ever been held sacred by all civilized nations; thereby offering an unexampled insult to the sovereignty and independence of Spain; trampling under foot the most solemn compacts, founded on the laws of nations; and contemptuously driving from that province the Spanish commandants and troops in garrison there. Your further remarks on the restrictive system of the Spanish government, are not strictly conformable to the fact; since you cannot be ignorant that explorators, travellers, and even American officers with troops, have at different periods traversed the provinces and territories of the crown of Spain in that part of America; and that only such persons have been arrested, as have been found violating the laws of the country, or aiding, with arms in their hands, banditti and rebels, for the purpose of subverting good order and public tranquillity.

Before I conclude this note, I have to state; that if the project of the definitive adjustment of all the differences pending between the two governments, which I presented to you on the part of mine, also included the claims for American captures made by the French on the coasts of Spain, or carried by them into Spanish ports, and there condemned in the first instance by French consuls, it was a sacrifice agreed to by Spain, with a view to terminate once for all these unpleasant disputes; and by this additional proof of her condescension and generous friendship for the United States, to conciliate a correspondent proceeding on the part of your government, from a respect to national law, and the solemn principles of justice and equity; as it regards Spain; but this sacrifice, as well as that offered by me on the subject of boundaries, and the cession of the Floridas, ceased to have any effect or force, from the moment your government refused to admit the said project; and consequently, his catholic majesty relinquishes to the United States all the rights they may have to claim of France for the said prizes condemned by her consuls and tribunals. Whilst that nation exists, no recourse can in equity be had on Spain, for indemnity for those spoliations. The recourse on Spain can, in no wise, be considered but as secondary. France being the aggressor, comes under the obligation as a principal. It was she who derived the benefit of those prizes, and on her devolves the responsibility for their amount; and Spain has only become accountable in this concern, as the security or caution of France. In conformity with this principle, an opinion has been given by three of the most eminent advocates of this country, who were consulted on the subject. It is also in strict conformity with the principles of natural law, and the venerable canons of common justice. It is in vain that reference is had to the letter of the existing treaty, to suppose and insist on the contrary. That treaty can never receive an interpretation contradictory of those principles, and the dictates of human reason.

The obligation of Spain cannot extend farther than to claiming of France, in behalf of the United States, and employing her best

endeavors to obtain for them a settlement and satisfaction from that nation; which, however, is to be understood only in case the United States have not already been indemnified by France, as has been repeatedly declared by the French government, or may have adjusted or abandoned that right by the treaty of 1800, and in subsequent conventions, as I have seen it stated in several public writings in this country.

Until I receive fresh orders, it is my duty to insist on the adoption of such measures by your government, as will promptly and effectually put a stop to the piracies which, for a series of years, have been carried on in various ports of this Union against the commerce of Spain. This system of plunder has been carried to a height unexampled in history: and the clamors of the reflecting part of the people of the United States denounce it to the whole world as a public calamity.

As to the exchange of the ratifications of the convention, of 1802, I am ready to proceed to execute it with you, whenever you will be pleased to name a time for that purpose.

In the meanwhile, I renew to you the assurance of my distinguished consideration, and I pray God to preserve you many years!

(Signed)

LUIS DE ONIS.

*Washington, 12th December, 1818.*

*Ann.*  
18th CONGRESS,  
2d Session.

[ 2 ]

*Relations*

## DOCUMENTS

FROM

THE DEPARTMENT OF STATE,

INTENDED TO ACCOMPANY

The President's Message to Congress,

OF SEVENTH DECEMBER LAST.

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JANUARY 5, 1825.

Printed by order of the House of Representatives.

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WASHINGTON:

PRINTED BY GALES & SEATON,

1825.



## LIST OF PAPERS SENT.

1.	Mr. Adams to Mr. Forsyth, No. 16,	13 June, 1821,	copy.
2.	Same to same, - -	17, 16 June, 1821,	do.
3.	Same to same, - -	18, 18 June, 1821,	do.
4.	Same to same, - -	20, 20 June, 1821,	do.
5.	Mr. Brent to same, -	25 Sept. 1821,	do.
6.	Mr. Adams to same, -	21, 9 Mar. 1822,	do.
7.	Mr. Forsyth to Mr. Adams,	38, 2 May, 1822,	extract.
8.	Same to same, - -	39, 20 May, 1822,	do.
„	a. Mr. De la Rosa to Mr. Forsyth, - -	15 May, 1822,	translation.
9.	Mr. Adams to Mr. Forsyth,	24, 19 June, 1822,	copy.
10.	Mr. Forsyth to Mr. Adams,	40, 23 June, 1822,	extract.
„	a. Mr. De la Rosa to Mr. Forsyth, - -	21 June, 1822,	translation.
„	b. Mr. Forsyth to Mr. De la Rosa, - - -	22 June, 1822,	copy.
„	c. Manifesto to the courts of Europe - - -	- - -	translation.
11.	Mr. Forsyth to Mr. Adams,	41, 28 June, 1822,	extract.
12.	Same to same, - -	44, 26 Aug. 1822,	extract.
13.	Mr. Adams to Mr. Forsyth,	26, 23 Oct. 1822,	copy.
14.	Same to same, - -	27, 16 Dec. 1822,	copy.
15.	Same to same, - -	30, 3 Jan. 1823,	do.
16.	Mr. Appleton to Mr. Adams,	20 Mar. 1823,	extract.
17.	Mr. Anduaga to same, -	9 Mar. 1822,	translation.
18.	Mr. Adams to Mr. Anduaga,	6 Apr. 1822,	copy.
19.	Mr. Anduaga to Mr. Adams,	11 Apr. 1822,	translation.
20.	Same to same, - -	24 Apr. 1822,	do.
21.	Same to same, - -	11 Oct. 1822,	do.
22.	Same to Mr. Meade, -	16 Oct. 1822,	do.
23.	Same to Mr. Adams, -	11 Dec. 1822,	do.
24.	Same to same, - -	14 Dec. 1822,	do.
25.	Mr. Anduaga to Mr. Adams,	6 Jan. 1823,	do.
„	a. Note of the Secretary of Despatch of State to Mr. Forsyth, - -	3 Sept. 1822,	do.
26.	Mr. Anduaga to Mr. Adams,	23 Feb. 1823,	do.
„	a. Mr. Daunes to Mr. Anduaga,	12 Feb. 1823,	do.

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|---|-----|-----------------------------|
| 27. Mr. Anduaga to Mr. Adams,                             |     | 6 Mar. 1823, translation.   |
| 28. Same to same, - -                                     |     | 7 Mar. 1823, do.            |
| 29. Mr. Salmon to Mr. Adams,                              |     | 15 Apr. 1823, do.           |
| 30. Same to same, - -                                     |     | 28 Apr. 1823, do.           |
| ,, a. Testimony in the case of<br>the Ninfa Catalana, - - |     | do.                         |
| 31. Mr. Adams to Mr. Salmon,                              |     | 29 Apr. 1823, copy.         |
| 32. Mr. Brent to same, - -                                |     | 22 Sept. 1824, do.          |
| 33. Mr. Salmon to Mr. Brent,                              |     | 29 Sept. 1824, translation. |
| ,, a. Paper communicated with<br>the above, - -           |     | 19 Sept. 1824, copy.        |
| 34. Mr. Adams to Mr. Nelson,<br>general instructions, - - |     | 28 Apr. 1823, extract.      |
| 35. Mr. Nelson to Mr. Adams, No. 4,                       |     | 15 Jan. 1824, do.           |
| ,, a. Same to Count Ofalia,                               |     | 10 Jan. 1824, copy.         |
| 36. Same to Mr. Adams, - -                                | 55, | 15 July, 1824, extracts.    |
| 37. Same to same, - -                                     | 39, | 11 Sept. 1824, do.          |
| ,, a. Same to Mr. de Salazar,                             |     | 7 Sept. 1824, copy.         |
| 38. Same to Mr. Adams, - -                                | 42, | 4 Oct. 1824, extract.       |
| 39. Same to same, - -                                     | 43, | 12 Oct. 1824, do.           |
| ,, a. Same to Mr. Bermudez,                               |     | 6 Oct. 1824, copy.          |
| ,, b. Mr. Bermudez to Mr. Nelson,                         |     | 8 Oct. 1824, translation.   |
| ,, c. Mr. Nelson to Mr. Bermudez,                         |     | 9 Oct. 1824, copy.          |
| ,, d. Same to same, - -                                   |     | 12 Oct. 1824, do.           |

## DOCUMENTS.

( No. 1. )

*Mr. Adams to Mr. Forsyth.*—No. 16.

DEPARTMENT OF STATE,

*Washington, June 13, 1821.*

SIR: The hope had been entertained, after the ratification by both parties of the treaty of 22d February, 1819, between the United States and Spain, that all our relations with that country would, thenceforth, have been of the most amicable character, signalized only by the interchange of good offices. It is painful to be obliged, on the return to your station at Madrid, to charge you with representations to be made to the government of Spain, relative to the unwarrantable delays by the Governor and Captain General of the Island of Cuba, in taking the measures incumbent upon him for carrying the treaty into execution.

By the seventh article of the treaty, the Spanish troops were to be withdrawn from the ceded territories, and possession of them was to be given of the places occupied by them, within six months after the exchange of the ratifications, *or sooner if possible*. And the United States were to furnish the transports and escort necessary to convey the Spanish officers and troops, and their baggage, to the Havana.

As soon as was practicable after the exchange of the ratifications, arrangements were made, on the part of this government, with the view of carrying into effect these stipulations. The royal order from the King of Spain to the Captain General of the Island of Cuba, for the delivery of the ceded territories, and of the archives belonging to them, to the commissioner of the United States authorized to receive them, had been transmitted with the Spanish ratification of the treaty to the Minister of Spain residing here, to be delivered by him after the exchange of the ratifications. It was accordingly delivered by him. Colonel James Grant Forbes was appointed by the President to carry it to the Governor of Cuba, and commissioned to receive the orders to the Governors or Commanding officers of the places within the territories, for their delivery, and also the archives which were to be given up. The United States' ship *Hornet* was despatched to the Havana, with Col. Forbes, who was instructed, on receiving them, to proceed with them, forthwith, to Pensacola, taking suitable measures for transmitting the order to the Governor of East Florida, at St. Augustine. A letter from the Spanish Minister here to the Governor of Cuba, was also furnished to Col. Forbes, announcing him as the officer authorized to receive the order for delivery and the ar-

chives. General Jackson was appointed by the President Governor of East and West Florida, and was instructed to proceed immediately to Montpelier, the post within the United States nearest to Pensacola; there to await the arrival of Col. Forbes, with the necessary orders; upon which the General was directed to receive possession for the United States, and to provide for the transportation of the Spanish officers and troops, and, their baggage, to the Havana; and by a liberal construction of that article of the treaty, the provisions necessary for the subsistence of these officers and troops, on their passage, was considered as concluded within its obligation.

General Jackson reached the post of his destination on the 30th of April. On the 22d of the same month, Colonel Forbes had arrived in the *Hornet*, at the Havana; and had he been despatched without delay, might have arrived at Pensacola in season for the reception of General Jackson, without any unnecessary detention. The letters received at this Department from Colonel Forbes, copies of which are herewith enclosed, exhibit a series of delays on the part of the Governor, for which no adequate reason is assigned, but which have already produced great public inconvenience to the United States, and which, if longer continued, will give them the most serious grounds of complaint. The last letter received from Col. Forbes, bears date the 23d of May, when his detention had already been protracted more than a month, in the interval of which the re-appearance of the disease incident to the climate excited strong apprehensions for the health of the captain and crew of the *Hornet*, as well as of Col. Forbes himself. There is too much reason for the alarm, with regard to Capt. Reid, who is stated, by accounts of dates more recent than those officially received, to have been, on the 28th of May, still at the Havana, and very dangerously ill.

General Jackson, desirous of ascertaining the number of men for whom it would be necessary to procure transports and provisions, as well as to make arrangements for the supplies necessary to the troops of the United States who were to take their place, sent, on the first of May, Dr. Bronaugh and Judge Brackenridge to Pensacola, with a communication of Don José Callava, Governor of West Florida, to communicate to him the commission and authority with which he was clothed, and to ask of him such information as would be necessary for the arrangements adapted to the evacuation of the territory by the troops of Spain, and to the taking of possession on the part of the United States. Governor Callava declined making any such communication, declaring himself subordinate altogether to the Governor General of Cuba, and that he did not feel authorized to act at all in regard to the execution of the treaty, until duly instructed to that effect by his superior officer. The letters, copies of which are enclosed, contain intimations from various sources, that all these dilatory proceedings have too much connexion with private purposes, and dishonorable pecuniary speculations. It is yet wished, that this awkward and unpleasant state of things may, before this, have terminated; but the unreasonable delays of the Governor General of Cuba, inconsistent no less with good faith than with the good harmony



which we are so desirous of cultivating with Spain, cannot be suffered to pass without animadversion. You will take the earliest opportunity, after your arrival at Madrid, to make suitable representations on this subject to the Spanish government; and to state, that, whatever unpleasant or injurious consequences may result from this unwarrantable conduct of the Governor of Cuba, must be attributed altogether to him.

By the fourth article of the treaty, each of the contracting parties engages to appoint a commissioner and a surveyor, to meet before the termination of one year from the ratification of the treaty at Natchitoches, on the Red River, to run and mark the boundary line. Col. McRae has been appointed the commissioner on the part of the United States, and will be ready to proceed on the important duties of the commission, as soon as the appointment of the Spanish commissioner and surveyor shall be notified to us. It is further stipulated, that the two Governments will amicably agree respecting the necessary articles to be furnished to those persons, and to their escorts, if necessary. At the time of the exchange of the ratifications, General Vives, at my request, promised to remind his Government of the necessity of an immediate appointment of the commissioner and surveyor on their part. It is presumed this will have been done before you reach Madrid. Your attention to the subject is, nevertheless, requested, in case any thing should yet remain to be done, to put in train the execution of this article. As the necessary supplies for the commissioners will be, naturally, best known on the scene of their operations, it is presumed the Spanish Government will authorize its minister here to agree, for them, to such arrangements, in this particular, as may be found necessary.

I am, with much respect, sir,

Your very humble and obedient servant,

JOHN QUINCY ADAMS.

JOHN FORSYTH,

*Minister Plenipotentiary U. S. to Spain.*

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( No. 2. )

*Mr. Adams to Mr. Forsyth.—No 17.*

DEPARTMENT OF STATE,

*Washington, 16th June, 1821.*

SIR: Since my letter of the 13th inst. a letter of the 28th ult. with inclosures, has been received from Col. James G. Forbes, copies of which will be forwarded to you next week. By a letter of the 5th inst. from Mr. Warner, our Commercial Agent at the Havana, we are informed that Col. Forbes, in the *Hornet*, sailed for Pensacola on the 30th ult. and the *Nonsuch* for St. Augustine on the 1st inst.

It is hoped, that, on the arrival of these vessels at their respective places of destination, no further vexations and unwarrantable delays

will occur in the execution of the seventh article of the Treaty. But Col. Forbes has been obliged to depart without the archives and public documents, which were stipulated by the Treaty, and directed by the Royal Order to the Governor and Captain General of Cuba, to be delivered over to us.

As Col. Forbes thus appears to have been *at last* despatched, the uncertainty as to the extent of time during which this measure might be protracted, has ceased, and the representation which, by my letter of the 13th inst. you was requested to make to the Spanish Government, will properly be accommodated to the circumstances as now known to us—with the complaints of delays, without the assignment of any reasonable cause, which it will yet be proper that you should prefer, a firmer confidence in the expectation that no further unnecessary postponements will occur, may be expressed, but our disappointment at the detention of the archives, will also require to be more explicitly signified; and it will be very desirable that you should obtain a new and peremptory order to the Governor and Captain General, for the delivery of *all* the archives and documents to which we are entitled by the Treaty, which will leave him no apology or pretence for either denial or procrastination.

I am, with much respect, Sir,

Your very humble and obedient servant,

JOHN QUINCY ADAMS.

JOHN FORSYTH,

*Minister Plenipotentiary U. S. to Spain.*

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(No. 3.)

*Mr. Adams to Mr. Forsyth.—No. 18.*

DEPARTMENT OF STATE,

*Washington, 18th June, 1821.*

SIR: Herewith are enclosed copies of a letter from Captain Downes, commander of the United States' frigate *Macedonian*, to the Secretary of the Navy, together with correspondence between him and the Vice Roy of Peru, relating to certain transactions, in which several persons belonging to the *Macedonian* lost their lives, and others were wounded; and much injury was suffered by the American schooner *Rampart*, for which some responsibility seems to attach to the officers and troops of Spain, if not personally to the Vice Roy.

These papers are transmitted to you, that you may be in possession of the facts, and that you should make such representation of them to the Spanish government as may be warranted by circumstances. Much of the injuries suffered by our people in this case, is,

perhaps irreparable; but, in communicating the facts and the correspondence to the Spanish Government, without any specific or formal demand of reparation, you will avoid any form of statement which might foreclose any such demand, which, upon further and more special information, may hereafter be found necessary or proper.

I am, with much respect, sir, your very humble and ob'dt serv't,

JOHN QUINCY ADAMS.

JOHN FORSYTH,

*Minister Plenipotentiary U. S. to Spain.*

(No. 4.)

*Mr. Adams to Mr. Forsyth.*—No. 20.

DEPARTMENT OF STATE,

*Washington, June 20, 1821.*

SIR: In a despatch received from Mr. Brent, at Madrid, dated the 23d of March last, it is observed, that, as, by the 20th article of the decree of the Spanish Cortes, of 6th Oct. last, the same tonnage duty and other charges, are to be exacted from American vessels in the ports of Spain, as are paid by Spanish vessels, in those of the United States, he suggests the propriety of transmitting a note of the charges upon Spanish vessels here, that it may be officially communicated to that Government.

The duties paid by Spanish vessels, in the ports of the United States, are 50 cents a ton, for tonnage, and the same sum for light money. They pay none others, to which vessels of the United States are not equally subjected; but an advance of ten per cent. on the amount of duties levied upon articles, the produce or manufacture of Spain, imported from Spain, in vessels of the United States, is paid when they are imported in Spanish vessels.

By an act of Congress of 3d March, 1815, since limited in its operation to the first day of January, 1824, all these discriminating duties are repealed, the repeal to take effect in favor of any foreign nation, whenever the President shall be satisfied that the countervailing, or discriminating duties of such foreign nation, so far as they operate to the disadvantage of the United States, have been abolished.

Upon this act, if the 20th article of the decree of the Cortes of 6th October last, had stood alone, the President would have issued his Proclamation, declaring the repeal to have taken effect from that date, in favor of the vessels and produce, or manufactures of Spain.

But, from your despatch, of 22d November, last, it appears that the duties, payable on goods imported into Spain; in foreign vessels, are regulated by the decree of 6th November, 1820, referring to a former regulation, by which they pay one third, or 33 $\frac{1}{3}$  per cent. more than

in Spanish vessels—a discriminating duty, more than three times heavier than ours, and under which the act of Congress, of 3d March, 1815. cannot take effect.

The act of 3d March, 1815, being an offer made to all commercial and navigating nations, is a manifestation of the liberal spirit of Congress, which, it is hoped, when understood, the Cortes will duly appreciate. You will take a proper occasion of suggesting to the Spanish Government, that, in the operation of their two decrees, upon their Commercial relations with us, there is an inconsistency of principle between the 20th article of the decree of the 6th October, and the 5th article of that of 6th November; since, while the former places the direct duty upon shipping on the fair and equitable principle of perfect reciprocity, the latter lays a heavy indirect charge upon all foreign shipping, which totally destroys the balance, so accurately poised in the other. You will add, that, if the Cortes will extend the principle of reciprocity to the indirect charge of  $\frac{1}{2}$  upon the merchandise, the produce or manufacture of the two countries, respectively, the President will readily issue his Proclamation, conformably to the act of 3d March, 1815, and thenceforwards, Spanish vessels and Spanish produce, or manufactures imported in them, will pay no more than the vessels of the United States, on the same article imported in them.

Mr. Brent has, during your absence, urged the admission of Consuls of the United States in the ultra marine Ports of Spain, without obtaining a definitive answer. You will resume the subject immediately after your return. There appears to be no doubt that a Russian Consul has been formally recognized at Manilla. At the Havana, our intercourse has become so great, that the agency of a consul is as necessary to the convenience of the Colonial Government, as to our citizens. Numbers of seamen frequent that port, who, in illness or distress, will become burdensome to the local Government itself, unless provided for by an acknowledged agent of our own.

In general, I beg leave to recommend to your particular attention our Commercial relations, both with Spain and all her possessions. The effect of the recent changes, by the Cortes, will come more immediately under your observation, than ours, and you will lose no opportunity which may present itself, of removing any obstructions, or of promoting any facility or advantages to our commerce.

You will not fail to avail yourself of any opportunity, which may be accessible, to obtain copies of records which may throw light on the titles to possessions in the newly ceded territories, and particularly, which may tend to screen the public from the imposture of false, illegal, or forfeited concessions. You are authorized to employ Mr. Rich, in this service, if you think it expedient, and to charge in your accounts any reasonable expense which it may occasion.

I am, with much respect, sir,

Your very ob't servant  
JOHN QUINCY ADAMS.

JOHN FORSYTH.

*Minister Plenipotentiary United States to Spain.*

(No. 5.)

*Mr. Daniel Brent to Mr. Forsyth.*

WASHINGTON, 25th September, 1821.

SIR: I received a letter from Mr. Adams, at Boston, a few days ago, directing me to forward to you the copy enclosed, of one which he has written to General Vives, upon the subject of the cannon attached to the fortifications in the Floridas, and the provisions furnished for the transportation of the Spanish garrisons, &c. to the Havana. I am sorry that I cannot send, at the same time, a copy of the letter of General Vives, to which this is a reply; that letter being in the hands of Mr. Adams, who is still at Boston.

You will find in the public prints, which accompany this, the statement of a very unpleasant occurrence at Pensacola, in the arrest and imprisonment of the Ex Governor, Callava, by the order of Governor Jackson, for refusing to deliver up some papers, supposed to be interesting to individuals, at Pensacola, and which were regularly demanded of him, at the instance, and upon the representation of the Alcalde of the court, Brackenridge. Governor Jackson, himself, has furnished this Department with a full and particular account of the transaction, in which he states the motives and the grounds of his proceeding in it, and of that which grew out of it in relation to Judge Fromentin, which is not materially different from that taken from the Floridian, except in the exposition of the motives and grounds of his conduct. The Secretary, upon his return to this place, will, probably, have occasion to give you special instructions on this subject; and you will, then, I presume, be furnished with the copies of all the papers connected with it.

I have the honor to be, very respectfully,

Sir, your obedient and humble servant,

DANIEL BRENT.

JOHN FORSYTH,

*Minister Plenipotentiary U. S. Madrid.*

(No. 6.)

*Mr. Adams to Mr. Forsyth—No. 21.*

DEPARTMENT OF STATE,

Washington, 9th March, 1822.

SIR: Your despatches, from No. 26, to No. 31, inclusive, with their enclosures, have been received.

I have now barely time to enclose, with this letter, the communications made by the President to Congress, during their present session, relating to our affairs with Spain. The Message yesterday sent in, and which you will find in the National Intelligencer of this morning, may, perhaps, excite the attention of the Spanish Government; and

should any manifestation of it be made to you, its purport will enable you to give every necessary explanation concerning it; and, particularly, that it resulted from a disposition in no wise unfriendly to Spain.

With this letter you will, also, receive a letter from the President to His Catholic Majesty, on the recall of General Vives, which you are requested to present in the usual form.

I am, with much respect, sir,

Your very humble, and obedient serv't.

JOHN QUINCY ADAMS.

JOHN FORSYTH.

*Minister Plenipotentiary U. S. Madrid.*

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(No. 7.)

*Extract of a letter, No. 38, from Mr. Forsyth to the Secretary of State, dated*

MADRID, *May 2d, 1822.*

“The President’s message to Congress, of the 8th of March, carried to Liverpool by the March packet from New York, was brought to this government by a special messenger from Mr. Onis. The message was published in the French and English papers that arrived here on Monday week. On the afternoon of that day, I had a casual conversation with Don F. M. de la Rosa. I asked him, if he knew such a message had been sent to Congress; he replied, that he had seen it in the French papers of that morning. From his mode of expressing these few words, and his suddenly shifting the conversation to an indifferent subject, I saw that this event was not expected by the ministers here, and has created great sensibility.”

“You will find in the Madrid Gazette of the 29th ultimo, herewith enclosed, a circular of the Minister of War on the subject of the Spanish officers who have left the ultramarine army, to return to this Peninsula. It is interesting, as, joined to other circumstances, it tends to shew the determination of this government to continue the war with some, at least, of their former provinces.”

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(No. 8.)

*Extract of a letter, No. 39, from Mr. Forsyth to the Secretary of State, dated*

MADRID, *May 20, 1822.*

“The King and royal family went down to Aranjuez, shortly after the meeting of the Cortes; the diplomatic body made the ordinary complimentary visit on the Queen’s day, and it was understood among us, that we were to pay no more visits until the anniversary of the King’s entrance into Madrid, on his return from France, on the 13th of this month, and St. Ferdinand’s day, the 30th. Notes

were written by the Secretary of State, on the 4th of April, inviting us to be present at the time of the delivery of the wife of Don Carlos; (a copy of that to me is enclosed, No. 1.) I had determined not to go; but a second note, on the 30th, (copy, No. 2.) and the knowledge that all the other ministers had gone down to Aranjuez, induced me to change this determination, being unwilling, especially at this juncture, to give any room for complaint, from a failure to comply with the customs of the court. I went to Aranjuez on the 5th instant. On the 7th, I received a note, (copy marked No. 3,) to attend at the expected delivery of Don Francisco's wife. The wife of Don Francisco gave birth, on the 13th instant, to a prince. Although I had been so long at Aranjuez, I received no notice to attend, when the event took place. Under ordinary circumstances, I should have taken it for granted that the omission was accidental; but, in the present state of the relations of Spain and the United States, I thought it necessary to ascertain that it was not an intended slight. I wrote, therefore, on the 13th, a note to M. de la Rosa, (copy, No. 4.) to which I received a satisfactory reply, (copy, No. 5.). On the 16th, the other princess was delivered of a second son. I had notice, but not early enough to get to the apartment adjoining that of the princess, to witness the exhibition of the new-born babe, at which I very heartily rejoiced.

“ On the 14th instant, I received your No. 21, enclosing the President's answer to the King's letter of recall of General Vivez. Copies of my note to the Secretary of State, and of his reply, on the subject of that letter, are enclosed, (No. 6 and 7.) I remained in Aranjuez until the 17th; and, agreeably to the King's wish, as communicated to me by the Secretary of State, I delivered the letter on that day.

“ Nos. 8 and 9 are copies of the Secretary of State's answers to the application for a continuance of the privilege of depositing, free of duty, naval stores, &c. for the exclusive use of our squadron in the Mediterranean, at Mahon, and to that for an order in favor of American vessels coming loaded with prohibited goods to St. Sebastian's. The refusal to continue longer the privilege of deposit at Mahon, was altogether unexpected, and shews that this government is determined to prove to us its displeasure at the Message of the 8th of March. It is the more remarkable, as the Cortes, in their session of the 6th of April, approved a report of the committee of Hacienda, recommending that this privilege should be continued. A statement of this determination of the Cortes, translated from the Government Gazette, is as follows:

“ The Committee of Hacienda, in view of the application of the Minister of the United States for the continuance, for an indefinite period, of the permission to introduce, free of duties, into the port of Mahon, the naval stores for the use of the American squadron cruising in the Mediterranean, is of opinion that the request should be acceded to, taking the necessary precautions to avoid abuses. Approved.”

“ I had previously understood from the English Secretary of Embassy, Mr. Harvey, resident Minister since Sir H. Wellesly's departure, that M. de la Rosa had spoken of the President's message of the

8th of March as hostile towards the Spains, and the report of the committee of the House of Representatives as an attack upon legitimacy. On my return to Madrid, on the 18th, I saw M. de la Rosa, and, as instructed by your No. 21, assured him that the message 'resulted from a disposition in nowise unfriendly to Spain.' He spoke with a great deal of warmth on the subject; said it was what, from the friendly conduct of the Spains to the United States, they could not have expected; in no state of circumstances could it have a friendly effect on the interests of this Government; that it appeared, from the message itself, that, not satisfied with taking this step ourselves, we had been, and still were, instigating on other governments to do so likewise, and that the measure was adopted upon information incorrect in itself, and derived from sources of doubtful authority. As it regarded Mexico and Peru, especially, there was absolutely no authentic information communicated to Congress with the message, as was proved by a copy of the published documents in his office. He considered it particularly injurious to Spain at this moment, when they were about setting on foot a negotiation with the different parts of Spanish America. He concluded by expressing an opinion, that the Spanish Americans were unequal to self-government, and that their independence, instead of being accelerated, would be retarded by this act of our Government. I replied, that the message itself explained the ground upon which the step was taken; that the intentions of the President were not unfriendly to Spain. As to the effect of the measure, it would, or it would not be injurious, according to the views of this Government. If they were disposed to yield to circumstances, and act prudently, it could do them no injury. I made no reply to his remarks on the published documents, as I had not seen them. As to the communications made to other foreign Governments, instead of being unfriendly, they had, in reality, proceeded from a contrary disposition—from a desire, on our part, that other powers, more remotely concerned in the question, should express an opinion on it at the same time with ourselves, with a view to its effects on the policy of this Government. That this step was taken in entire ignorance of the negotiation to which he alluded. The Cortes Extraordinary had authorized the Government to enter upon this negotiation *only in February last*. The only information possessed by the Government of the United States, of conciliatory attempts on the part of Spain, was the knowledge of the mission to Buenos Ayres, in 1820, and of the negotiation begun here with the Commissioners of Venezuela, in 1821. The first had totally failed, the commissioners of Spain not being permitted to land; and the second had been interrupted by an order from the Government to the Commissioners of Colombia to leave the kingdom. It might be convenient to Spain to delay, but circumstances did not permit other Governments to imitate her dilatory policy. That "the Spanish Americans were unequal to self-government," I thought an unfortunate observation, as it proved, if true, that they were not fit to live under the Spanish constitution. We should regret very much that a measure intended to be useful, should prove injurious to either of



the parties, but should not be satisfied that such would be the effect, until experience had proved it. The conversation terminated by a remark on his part, that what was intended to be done by the President was yet uncertain, and that they would *wait*, to know how far the Government of the United States would go."

"There has been a council of state on this act of ours. A protest was recommended; the Minister of Spain not to be withdrawn from the United States, *at least for the present*, and the preparation of the necessary force to act efficiently in ultramar, as formerly advised by the same council. This advice, it is said, has been sent to the Cortes, and is before the commission of ultramar; of this I have no certain information, but it is altogether probable.

"The proposed admission of the flags of the Spanish American governments into English ports, is said to be as vexatious as our determination to recognize their independence. Of herself, Spain can do nothing but negotiate with the Spanish American governments. Nor has she the means to procure the assistance of other powers, which she is willing to give and they willing to accept. M. de la Rosa has spoken to some of the foreign ministers here of the proposed recognition as a violation of treaty stipulations; referring, I conjecture, to the treaty of Utrecht, and of the Holy Alliance, with which we have as little concern as with the compact between Rome and Carthage. Constitutional Spain is no favorite with the Holy Alliance, and the revolution of 1820, glorious as it was for this country, settled the question between the Spanish old and new world. The use of force, to be sent from Europe, since March of that year, has not been seriously thought of. The liberal government adopted here, and the equality of rights and privileges offered to the Spanish Americans, were supposed to be means sufficient to restore at least a portion of revolted Spanish America, and assure the fidelity of the parts still connected with Spain, to the empire. The appeal of M. de la Rosa to the principles of the Holy Alliance, is a proof of mental weakness I did not expect from him.

"If a successor is appointed, with directions to come to Spain about that time, all the necessary instructions will, of course, be given to him; if not, you will be so good as to communicate to me what disposition the President desires to have made of the affairs of the legation, when I am about to leave Spain, and, in either case, to furnish me with the necessary documents to enable me to take leave here with decorum."

(No. 8.—a.)

*Don Francisco Martinez de la Rosa to Mr. Forsyth.*

[TRANSLATION.]

MADRID, *May 15th, 1822.*

SIR: I acknowledged to you, in proper time, the receipt of your note of the 18th of September last, in which you requested that his Majesty would extend, for an indefinite or a limited time, the privilege which he was pleased to grant, on the 26th of February, 1821, to admit into Mahon, for the term of six months, naval stores and provisions sent from the United States, for the exclusive use of the American squadron cruising in the Mediterranean.

Having submitted a translated copy of the above note of yours to the Secretary of Hacienda, he replied to me that his Majesty was not disposed, at present, to grant the extension for which you applied.

I renew to you the assurances of my most distinguished consideration, and pray God to preserve you many years.

Your very obedient servant,

FRANCISCO MARTINEZ DE LA ROSA.

To Mr. JOHN FORSYTH.

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 (No. 9.)
*Mr. Adams to Mr. Forsyth.—No. 24.*

DEPARTMENT OF STATE,

*Washington, 19th June, 1822.*

SIR: Since I had the honor of writing you on the 30th ultimo, I have received your letter, No. 36, of 15th April, enclosing your accounts.

A letter, of which a translation is now enclosed, has also been received from the Spanish minister, Anduaga.

If the Spanish government are desirous of postponing the meeting of the Commissioners to run the line, we are not disposed to urge them to it. You will, accordingly, not press the subject upon them; and if they address you concerning it, will manifest our readiness to attend to it at their convenience.

I am, with great respect, Sir,

Your very humble and ob't servant,

JOHN QUINCY ADAMS.

JOHN FORSYTH,

*Minister Plenipotentiary U. S. Madrid.*

( No. 10. )

*Extract of a letter, No. 40, from Mr. Forsyth to the Secretary of State, dated*

MADRID, June 23, 1822.

“Mr. De Barras arrived here twenty days since, with Mr. Anduaga’s protest against the message of the 8th March, and your reply. On the 21st, I received from the Secretary of State, two copies of a manifesto, passed by order of the king to the different courts of Europe. One of them is enclosed with this despatch, with a copy of the note received with it, and of my acknowledgment of their receipt. This manifesto was prepared in obedience to the resolutions of the Extraordinary Cortes, a translation of which was sent to you with my No. 34. *When* it was written, I do not know; but my belief is, that it has been prepared *since* a copy of the President’s message, of 8th March, was received by this government. I wait with some anxiety to receive instructions subsequent to the close of your correspondence with Mr. Anduaga, on this subject. I cannot anticipate exactly what this government will do. The probability is, that they will not do more than break off their diplomatic intercourse with us. If this is done by merely recalling their minister from the United States, I shall not feel at ease until I know the wishes of the President.

“The ‘informe’ of the commission of Ultramar, on the memoir of the minister of Ultramar, which you will receive herewith, is an interesting document, although the question between the Spanish American Government and Spain is not considered under the new shape it assumed after the President’s message of the 8th of March; the ‘informe’ will serve to put you in possession of the views of a respectable committee of the Cortes, after the message was known to have been sent to Congress. The idea of establishing neutral ports in Spanish America, and a neutral flag *only*, for the Peninsular and American Spaniards, *is new*. The only propositions that promise any practical good, are those made by Sanchez, already alluded to, and those with which Sbarra, a member of the commission of Ultramar, concludes his particular vote. Every thing which has been done on this subject, proves conclusively, that the Cortes and the Government are satisfied that they are without the power to produce a reunion of Spanish America with the Peninsula, *by force*; yet, with this conviction, there exists a perverse determination not to adopt the only measure which promises to be advantageous to Spain. The Cortes will close its session in a few days; they will probably do something before they rise. I expect, however, nothing of a decisive character. There have been lately several secret sessions, with what object, as yet, I know not.”

( No. 10—*a.* )*Don Francisco Martinez de la Rosa to Mr. Forsyth.*

[TRANSLATION.]

Don Francisco Martinez de la Rosa presents his respects to the Minister of the United States of America, and has the honor to enclose to him two copies of the manifesto, which the Ministers and Charges d'Affaires of Spain have passed to the Courts of Europe, by order of His Majesty.

PALACE, June 21st, 1822.

( No. 10—*b.* )*Mr. John Forsyth, to H. E. the Secretary of Despatch of State.*

To H. E. the Secretary of despatch of State, Mr. John Forsyth presents his respects, and has had the honor to receive the two copies of the manifesto, passed by order of H. C. M. to the Courts of Europe, enclosed with H. E. note of the 21st instant.

JUNE 22d, 1822.

( No. 10—*c.* )

[TRANSLATION.]

*Manifesto, that, by order of H. M. the Ministers and Chargé d'Affaires of Spain have passed to the Courts of Europe.*

His Catholic Majesty, in calling the attention of his august allies towards the dissident Spanish provinces of America, judges it not only useless, but unseasonable, to examine the causes which produced, in those countries, a desire to separate from the mother country; it is sufficient to H. C. M. to have the consolation, that it was not the abuse of power, nor the weight of oppression, which originated so serious an event; and that only extraordinary circumstances, and the terrible crisis in which Spain saw herself compromised, to free her throne and her dignity from the imminent risk of a foreign usurpation, could occasion a disunion so fatal between the members of one and the same family.

Since that epoch, as glorious as unfortunate, various have been the political aspects which the different provinces of Ultramar have presented; military events have succeeded each other with alternate success; the cause of the dissidents has taken a different direction in each one of the principal parts of that immense continent: and H. M. sees, with the most profound grief, those interesting regions suffering all the ills, and exposed to all the dangers, which are the inevitable consequences of a revolution.

For the same reason, H. C. M. desires ardently to put an end to a

situation so painful of anxiety and of uncertainty; and, carrying into execution the beneficent resolutions of the *Cortes*, has named the respective Commissioners to proceed to the dissident provinces of Ultramar, hear their propositions, transmit them to the Spanish government, and open a frank and sincere correspondence, which may have for object and end the good of those countries and that of the nation in general.

H. C. M. does not present himself to those provinces as a resentful monarch before his misled subjects, but as a pacific mediator in the discords of his children. He casts a veil over the past, in order to see the present without any kind of prejudice, and contemplates the actual situation under all the relations which unite it with the future. The common good of the provinces of both hemispheres; this is the only end of the negotiations; this, its only basis; this, the common centre where all its combinations must be directed.

Never has a more important transaction presented itself; but neither is it possible for a government to prepare to commence it with greater loyalty and good faith. H. C. M. cannot persuade himself that the interest of the provinces of Ultramar can be found in opposition to that of European Spain; and this sentiment, so worthy of his heart, stimulates him to look for the means of reconciling their common advantages, and offers him a consolatory confidence that it will not be impossible to find it. H. C. M. gratifies himself with the flattering hope that this frank and generous confidence will spare those regions whole ages of misery and destruction; prevent civil war and anarchy from retarding the progress of civilization and improvement; avoid the depopulation, poverty, and immorality, which attend great political oscillations, and which condemn to disgrace and misery one generation, without securing the repose or the felicity of the following.

H. C. M. believes, at the same time, that the greatest good he can procure to Peninsular Spain, is, to put an end to a desolating and fratricide war; and that, placed between brothers, united by the ties of blood, and of religion, of language, of customs, and even of convenience itself, his voice cannot fail to be heard with benefit to one and the other.

But H. C. M. extends his views to a more extensive horizon, and considers this great question as an European question. A long time passed before the prodigious effects of the discovery of the new world were perceived in this continent; nobody could foresee them, much less calculate them; it was an unknown, immense career, without any barriers to confine it within its space. The same, H. M. judges, may be said of the great events which are agitating America, and whose effects must influence, necessarily, and in a very rapid manner, the lot of Europe. It is not possible to determine the degrees of this influence, nor the alterations which it must produce in the reciprocal relations of the one and the other hemisphere; but H. C. M. hesitates not to affirm, that the transaction which fixes the lot of the Spanish provinces of America, and puts an end to the blind and impetuous

course of its revolution, will be one of the benefits the most memorable for the civilized world.

Necessities, commerce, habit, communications of every species, have united, with multiplied bonds, the two hemispheres; and it is easy to conceive, that an entire continent, delivered to the struggle of the passions, and made the theatre of a durable revolution, cannot fail to influence perniciously the political and moral relations of Europe, when it has scarcely began to recover from the agitations and disturbances it has labored under for the space of thirty years.

There will be, perhaps, superficial spirits, who will see a solid and established government and a constituted nation, in each province which may have declared its independence; and who, without attending to obstacles of any kind, nor to the principles of public right, nor to the best known maxims of the law of nations, will believe, that the mere fact of the separation of a province from the state of which it formed a part, legitimates its existence! insulated and independent! and gives it the right to be recognized as such by other powers.

But governments fortunately know, by a sad experience, the effects which are produced by a similar overthrow of principle; they foresee the consequences of its propagation, not less fatal to legitimate governments than to the integrity of nations; and are well aware of the consequence to Europe, of sanctioning, in America, as some pretend, the undefined right of insurrection.

Thus it is, that H. C. M. believes not only interested in this question those nations who possess colonies and establishments in Ultramar, to which the same theory could be applied, that it is now intended to legitimate, with respect to the Spanish provinces of America; but, that he also considers this business as intimately connected with those conservatory principles that offer securities to all governments and guarantees to society.

Before this great and capital object, all other considerations disappear by their smallness, and therefore H. C. M. does not recur to those subaltern reasons, which, in ordinary times and circumstances, are employed by policy in support and defence of justice.

Although the question is viewed under this other aspect, Spain presents, in all her relations, new and powerful motives, which ought to excite, in her favor, profound sentiments of the most severe impartiality. Without any kind of ambitious pretension, placed with respect to all nations in an inoffensive situation, and dedicated, exclusively, to affirm and consolidate her interior felicity, she can neither provoke jealousies nor rivalries, nor cause to be desired the violent dismemberment of the various parts of the monarchy, with the object of debilitating it. Spain, however powerful she may be, cannot threaten the repose nor the security of other nations; and Spain, rich and powerful, could advantageously influence the preservation of the equilibrium of power. An instinct of honor and of loyalty re-united the unknown elements of her strength, and, engaged in the most unequal struggle, gave time to the continent to rise up against the common enemy, and destroy his oppressive yoke. This fact alone renders un-

necessary all reflections and commentaries. It alone inspires interest in favor of the magnanimous nation, and announces what ought to be its destiny, always beneficent, and never offensive—nature and policy designate it this advantageous position on the map of nations.

This grand political view was not hidden from the European cabinets, when they saw destroyed the colossal and exaggerated power which Spain, alarming Europe, had exercised for the space of two centuries.

After a long struggle, it was determined, at last, to fix the lot of Spain, considering it enwoven with the federal European system, and, at the same moment, was foreseen the advantage of affirming her power, securing it, in America, a point of support that might augment its weight, in the political balance, to maintain the equilibrium of Europe.

To such a point was given importance to this consideration of general interest, that Spain obliged herself not to transfer or dispose of, in any manner, any portion of her territory in America; and, in order to make its possession more secure and inviolable, and to remove even the motives for suspicion and want of confidence, she deprived herself even of the liberty of conceding to other nations, by any means, or under any pretext, the commerce and trade with those countries.

Time, notwithstanding, has produced a very important alteration in this point. and a more enlightened policy, the change in the mercantile relations, the rectification of economical principles. and a multitude of other combined causes, has convinced Spain that it will be as prejudicial to her peninsular interests, as injurious to the provinces of Ultramar, to aspire to the preservation of a commercial monopoly, formerly viewed as the bond of union between the two great moieties of the monarchy.

H. C. M. judges, on the contrary, that those ties only are durable which are founded on the common interest, and that peninsular Spain may obtain commercial advantages favorable to her industry and navigation, without aspiring to a privilege so exclusive; that new necessities and new desires, arising from the progress of civilization and of wealth, makes necessary a more frank and liberal system for the provinces of Ultramar; and that, in place of struggling uselessly with the mercantile spirit, which has so much influence in the political system of modern nations, the true interest of Spain consists in conciliating it, instead of provoking it as an irreconcilable enemy.

Proposing to itself such important objects, all the laws, all the dispositions given since the restoration of the constitution, have a tendency beneficent, generous, and to the colonization of strangers in Spanish America, and to the freedom of commerce in those regions: and the experiment made in the island of Cuba has been sufficient to demonstrate, practically, that the general interest of all nations, the interest of the provinces of America, and that of European Spain, all coincide in one same point.

By this simple and natural mean, H. C. M. has found absolutely removed the only obstacle that might prevent the most perfect union

between the policy of Spain and that of the other cabinets. A solid, stable, and recognized government, a faithful observer of its treaties, prepares to treat with the dissident provinces of America, and offers to the other powers the greatest commercial advantages; it would not be possible to designate (even when the question should be reduced to the simple calculation of lucrative interest) an object which might serve as a counterpoise in the opposite extreme.

The civil wars and the anarchy that frequently succeed revolutions, and especially when their elements are so heterogeneous and contradictory as in America, are surely not calculated to augment the exchangeable products of a country, nor to invite strangers with the effective and persuasive security which is the soul of commerce; nor can precarious and uncertain governments, without any guarantee, secure themselves the advantages which they may offer. It is now twelve years since Buenos Ayres, delivered to its own fortune, has toiled in vain to consolidate a government, and the misery and depopulation suffered by the provinces of Costa-firma, have retarded instead of accelerating their wealth and prosperity. In matters of this class when facts come in support of reason, it is useless to oppose to certain and known results, vague and indefinite hopes.

But, it appears only as if a new calamity has taken place, in confirmation of the evils which should have been foreseen—the insurrection of the American continent has given color and support to the piracy of the seas, and commerce in general begins to suffer from the insecurity and dangers of this immoral and barbarous war, which knows no law but that of sordid interest, and which treats and despoils as enemies the industrious individuals of all nations, indiscriminately.

Hence, and by an admirable concatenation, every thing concurs to establish the utility and urgency of a definitive arrangement of a business of such vast and profound ramifications, and every thing contributes to stimulate the Spanish government not to retard, by any secondary motive, a transaction so important.

H. C. M. flatters himself with the greatest satisfaction, that, about to establish with the dissident provinces this ample and friendly communication, he will find in the other governments that circumspect and deliberate conduct, that justice prescribes, and that policy recommends, and that sentiments of impartiality and benevolence inspire.

The Spanish nation, treating to put an end to a domestic discord, the same inviolable respect which it professes to the rights of other nations, inspires it with the just confidence of being treated reciprocally with the same considerations, not being able to suspect, even on the part of the nations who desire to continue in friendship and harmony with her, any hazarded step which might suppose already resolved the question which the Spanish nation is about to decide as its own, in use of its legitimate acknowledged rights, and which it has never, in any manner, renounced.

In which state, the same means made use to excite government to the recognition of the independence of the dissident Spanish provinces of America, will offer on the contrary a notorious and solemn occasion



to sanction the fundamental principles upon which the integrity and tranquillity of nations and the public morality of governments repose.

The tenor and spirit of treaties, the good faith which ought to reign between friendly powers, the conviction of an obligation supported equally by an enlightened and foreseeing policy, the real welfare itself of the dissident provinces, and even the general utility of all the potentates, offer an equal number of securities to H. C. M. that his laudable desires will find in his august allies the most favorable and friendly reception.

*Madrid, June 28, 1822.*

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(No. 11.)

*Extract of a letter, No. 41 from Mr. Forsyth to the Secretary of State, dated,*

*MADRID, June 28th, 1822.*

“I have not been able to ascertain if any thing has been said or proposed in the Cortes, during their secret sessions, with regard to the United States. There is one striking circumstance that renders it probable that there has. In the discussion of the business of Ultramar, not even the most remote allusion has been made to the resolution of our Government to recognize the Spanish American Governments.—The message of the 8th of March, your subsequent correspondence with Anduaga, and the determination of the Council of State, when consulted by the Ministers, are certainly known to the Cortes, if not, as is more probable, formally communicated to them. I can hardly conceive it possible, that a reference to this step of ours should not have been made, if it had not been studiously avoided, and I see no sufficient motive for a studious avoidance of it, if the subject had not been under consideration in a different shape. This is mere conjecture; you will give to it its due importance, as you are made acquainted with the foundation of it.”

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(No. 12.)

*Extract of a letter, No. 44, from Mr. Forsyth to Mr. Adams, dated*

*MADRID, August 26th, 1822.*

“The late events have had a favorable effect for us. The danger so near home has drawn their attention from American affairs, and blunted the sensibility excited by our recognition of the Governments established in our hemisphere. Every one feels too, that, among the Governments, the Spanish Constitution has no friends but the United States, and perhaps England. Every one is sensible that Spain has no power to compel Spanish America to unite with the Peninsula, and

that no assistance is to be procured from the European Powers, without a sacrifice of the free institutions now established here. The administration has passed into the hands of a party at all times more reasonable, and less prejudiced on this subject, than those who have heretofore administered the Government."

( No. 13. )

*Mr. Adams to Mr. Forsyth.—No. 26.*

DEPARTMENT OF STATE,

*Washington, 23d Oct. 1822.*

SIR: By an act passed at the last session of Congress, (8th May, 1822,) for ascertaining claims and titles to land within the Territory of Florida, a commission was established, to consist of three Commissioners, for the adjudication of claims at Pensacola and St. Augustine, under certain rules, regulations, and conditions, prescribed in the act. James P. Preston, Nathaniel A. Ware, and Samuel R. Overton, were appointed the Commissioners.

I have the honor of enclosing, herewith, copies of letters from two of them, Mr. Ware, and Mr. Overton, in session as a Board at Pensacola, and from Joseph M. White, their Secretary, from which you not only perceive conclusive proof of the indispensable necessity, for the purposes of public justice, that the documents and archives transmitted to the Havana should be delivered up, conformably to the express stipulation of the Treaty; but, what is still more extraordinary, that *copies* have been produced before the Board, certified by the Captain General himself, at the Havana, of documents which could not, consistently with good faith, be withheld.

By the decease of the Captain General, Mahy, the duties of his office have passed into other hands. The President hopes and trusts, that it will afford an opportunity, of which the Spanish Government will readily avail itself, to redeem the pledge of their express and positive engagements. He desires you, therefore, to renew, in an earnest, though friendly and conciliatory manner, the application for the most explicit orders to the commanding officer at the Havana, for the delivery to the United States of all the archives and documents, relating to the sovereignty and property of Florida, which, conformably to the Treaty, should have been surrendered. They include, of course, all documents relating to land titles in the Province—since the Province, itself, is the only place where they can be useful or necessary, to establish the right of any one to property there; and since such rights can, in most cases, be established there only by them.

Should the Spanish Government accede to this demand, due to its own good faith no less than to justice, you will request that a duplicate of the order to the Captain General or commanding officer at the

Havana, for the delivery of the archives, should be furnished to you, to be transmitted hither, that it may be forwarded hence by a person duly authorized, by the Government of the United States, to receive them.

I am, with great respect, Sir,  
Your very humble and obedient servant,

JOHN QUINCY ADAMS.

JOHN FORSYTH, *Minister, &c.*

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( No. 14. )

*Mr. Adams to Mr. Forsyth.*—No. 27.

DEPARTMENT OF STATE,

*Washington, 16th December, 1822.*

SIR: I have had the honor of receiving your despatches to No. 48, inclusive, with their enclosures:

Copies of a late correspondence between the Spanish Minister, Anduaga, and this Department, relating to the capture of the Spanish Privateer Brig Palmyra, by the United States' Schooner Grampus, are herewith transmitted; and in the printed documents, and papers now forwarded, you will see the multiplied outrages and depredations to which the commerce of the United States has been, and continues to be, exposed, from pirates. issuing chiefly from the islands of Porto Rico and Cuba. To the distressing catalogue of injuries which we have, thereby, sustained, is now added the loss of several lives of our seamen; and, among them, that of Lieutenant Allen, commander of the Alligator, who perished in the act of re-capturing five valuable vessels which were in possession of the pirates.

This evil has been long growing to a magnitude which is no longer supportable, nor remediable, but by measures of promptitude and vigor. These atrocious robberies are committed by men issuing from the ports of those islands, in shoal waters, and under the protection of the very shores; in many cases, with small boats unapproachable by vessels of force adequate to subdue them. When closely pursued, they abandon their boats, and escape to the shores; and, when successful, the fruits of their lawless plunder are exposed, in the public marts of the island, with an indecency little creditable to the authorities of the island themselves, which have, hitherto, made little more than ostensible exertion to suppress them.

In this state of things, a plan has been laid before Congress, for their consideration, for the organization of a force specially adapted to the extirpation of this cluster of banditti—a force adapted to pursue them into the shallow waters, where they have, hitherto, often found a too effectual refuge. To its complete success, it may, occasionally, be necessary for our officers and men to follow them, even to, and

upon the shores of the island; of this necessity the President wishes you to apprize the Spanish Government, and to obtain their immediate consent thereto. You will state that the urgency of the case will not admit of delay, and that he trusts it will be assented to by Spain, without hesitation. You will, at the same time, press upon the Spanish Government the propriety of instructions being given, forthwith, to their commanding officers in those islands, to co-operate, by the most effective means, with our naval force, for the suppression of these common enemies of the human kind; and of affording to our officers every facility in their power in aid of their operations. An agent will be shortly despatched to the Havana, for the purpose of concerting with the authorities in Cuba the measures which may be most effectual to this end, and of giving effect, by communication with the officers commanding our armament, to their proceedings. He will, also, be charged with authority to receive the archives and documents, relating to Florida, which have been so long withheld, and for the delivery of which, by your despatch, No. 48, it appears that a new and positive order has been promised.

I am, with great respect, sir,

Your very obedient and humble serv't,

JOHN QUINCY ADAMS,

JOHN FORSYTH,

*Minister Plenipotentiary U. S. Madrid.*

( No. 15. )

*Mr. Adams to Mr. Forsyth.—No. 30.*

DEPARTMENT OF STATE,

*Washington, 3d January, 1823.*

SIR: Mr. Edward Wyer, the bearer, is despatched, as a confidential messenger, with the letters and documents which he will deliver to you. The unpleasant incidents which occurred in the course of the last summer, at Algiers, are, doubtless, known to you. If the misunderstanding should be known to you to be still subsisting, upon Mr. Wyer's arrival at Madrid, he is instructed to proceed thence with a despatch to our Consul General, Mr. Shaler, wherever he may be.

It is hoped, however, that, 'ere this, an amicable explanation may have removed the difficulties which had arisen, and that Mr. Shaler will have returned to Algiers, and resumed his Consular functions there. In that case, Mr. Wyer will transmit the despatch for Mr. Shaler, with which he is charged, by any safe and ordinary mode of conveyance, and will return here with any despatches which you may entrust to him; waiting, as long as you may think advisable, for the answer to the demand of permission to pursue the pirates of Cuba on the shores of the island.

Besides the correspondence with Mr. Anduaga, copies of which

are, herewith, transmitted, I have received several very long and earnest communications from that Minister, the replies to which have been, and yet are, delayed, in the hope that they may be received, by him, in a disposition more calm and temperate than that which is manifested by his notes. He appears to think it material to the interest of his Government, to maintain the attitude of loud complaint in regard to transactions, with respect to which the primary cause of complaint is on our side. The only exception to this remark, relates to a miserable attempt at an expedition against the island of Porto Rico, headed by a foreign officer, named Decoudray de Holstein, but on board of which were some misguided citizens of the United States. One of the vessels appears to have been fitted out at Philadelphia, and one at New York, but the first intimation of these facts, received by this Government, was long after they had sailed, and from the island of St. Bartholomew's.

We have since learnt that the masters of the vessels were deceived with regard to their destination; and that, when it was discovered by them, they positively refused to proceed upon it, and insisted upon going into the island of Curracoa, where the chief, and others, of the expedition, were arrested. You will make this known to the Spanish Government, and assure them that this Government knew nothing of this expedition before the departure of the vessels from the United States. This will not be surprising, when it is known that it escaped equally the vigilance of Mr. Anduaga himself, who divides his residence between New York and Philadelphia, and of all the other Spanish official agents and consuls at those places.

Mr. Anduaga has taken this occasion to renew, with much sensibility, all his own complaints, and those of his predecessors, against armaments, in our ports, in behalf of the South American Patriots; and even against that commerce which our citizens, in common with the subjects of all the maritime nations of Europe, have, for many years, maintained with the people of the emancipated colonies. These complaints have been so fully, and repeatedly answered, that there is some difficulty in accounting for Mr. Anduaga's recurrence to them with the feelings which mark his notes concerning them. Should the occasion present itself, you will give it distinctly to be understood, that, if some of those notes remain long, and may, even finally, remain unanswered, it is from a principle of forbearance to him, and of unequivocal good will towards his Government, and his country,

I am, with much respect, sir,

Your very humble and obedient serv<sup>t</sup>,

JOHN QUINCY ADAMS.

JOHN FORSYTH,

*Minister Plenipotentiary U. S. Madrid:*

(No. 16.)

*Extract of a letter from Mr. Appleton to Mr. Adams, giving the substance of a conversation with the Secretary of State for Foreign Affairs, dated*

MADRID, 20th March, 1823.

“I determined to improve the first opportunity of sounding Mr. San Miguel. This opportunity was presented on the 15th, when he informed me that he had resisted the demand of England to be permitted to land on the Island in pursuit of pirates. I said, that if it was true, as circulated, that the British had landed 500 men at Matanzas, they had not been satisfied with his answer. To this Mr. San Miguel replied, that he did not believe the report, as the only pretext which the English could allege for landing, had been abandoned by them, on being assured that the Governor of Cuba would readily co-operate with their fleet for the destruction of the pirates.”

(No. 17.)

*Don Joaquin de Anduaga to the Secretary of State,*

[TRANSLATION.]

WASHINGTON, 9th March, 1822.

SIR: In the National Intelligencer of this day, I have seen the Message sent by the President to the House of Representatives, in which he proposes the recognition by the United States of the insurgent Governments of Spanish America. How great my surprise was, may be easily judged by any one acquainted with the conduct of Spain towards this Republic, and who knows the immense sacrifices which she has made to preserve her friendship. In fact, who could think that, in return for the cession of her most important provinces in this hemisphere; for the forgetting of the plunder of her commerce by American citizens; for the privileges granted to this Navy; and for as great proofs of friendship as one nation can give another; this Executive would propose that the insurrection of the ultra marine possessions of Spain should be recognized. And, moreover, will not his astonishment be augmented to see that this Power is desirous to give the destructive example of sanctioning the rebellion of provinces which have received no offence from the mother country, to those to whom she has granted a participation of a free constitution, and to whom she has extended all the rights and prerogatives of Spanish citizens? In vain will a parallel be attempted to be drawn between the emancipation of this Republic, and that which the Spanish rebels attempt, and history is sufficient to prove, that, if a harassed and persecuted province has a right to break its chains, others, loaded with benefits, elevated to the high rank of freemen, ought only to bless and embrace more closely the protecting country which has bestowed such favors upon them.

But, even admitting that morality ought to yield to policy, what is the present state of Spanish America, and what are its Governments, to entitle them to recognition? Buenos Ayres is sunk in the most complete anarchy, and each day sees new despots produced, who disappear the next. Peru, conquered by a rebel army, has, near the gates of its capital, another Spanish army, aided by part of the inhabitants. In Chili, an individual suppresses the sentiments of the inhabitants, and his violence presages a sudden change: on the coast of Firma, also, the Spanish banners wave, and the insurgent Generals are occupied in quarrelling with their own compatriots, who prefer taking the part of a free power, to that of being the slave of an adventurer. In Mexico, too, there is no Government; and the result of the questions which the chiefs commanding there have put to Spain, is not known. Where, then, are those Governments which ought to be recognized? where the pledges of their stability? where the proof that those provinces will not return to a union with Spain, when so many of their inhabitants desire it? and, in fine, where the right of the United States to sanction, and declare legitimate, a rebellion without cause, and the event of which is not even decided?

I do not think it necessary to prove, that, if the state of Spanish America were such as it is represented in the message; that, if the existence of its Governments were certain and established; that, if the impossibility of its re-union with Spain were so indisputable; and that, if the justice of its recognition were so evident, the powers of Europe, interested in gaining the friendship of countries so important for their commerce, would have been negligent in fulfilling it. But, seeing how distant the prospect is, of even this result, and faithful to the ties which unite them with Spain, they await the issue of the contest, and abstain from doing a gratuitous injury to a friendly Government, the advantages of which are doubtful, and the odium certain. Such will be that which Spain will receive from the United States in case the recognition proposed in the message should take effect. And posterity will be no less liable to wonder that the power which has received the most proofs of the friendship of Spain should be the one delighted with being the first to take a step which could have only been expected from another, that had been injured.

Although I could enlarge upon this disagreeable subject, I think it useless to do so, because the sentiments which the message ought to excite in the breast of every Spaniard, can be no secret to you. Those which the King of Spain will experience at receiving a notification so unexpected, will be, doubtless, very disagreeable, and at the same time that I hasten to communicate it to His Majesty, I think *it my duty to protest, as I do solemnly protest, against the recognition of the Governments mentioned, of the insurgent Spanish provinces of America, by the United States; declaring that it can, in no way, now, or at any time, lessen or invalidate, in the least, the right of Spain to the said provinces, or to employ whatever means may be in her power to re-unite them to the rest of her dominions.*

I pray you, sir, to be pleased to lay this protest before the President,

and I flatter myself that, convinced of the solid reasons which have dictated it, he will suspend the measure which he has proposed to Congress, and that he will give to His Catholic Majesty this proof of his friendship and of his justice.

I remain, with the most distinguished consideration, praying God to guard your life many years, your most obedient, humble servant,

JOAQUIN DE ANDUAGA.

(No. 18.)

*Mr. Adams to Mr. Anduaga.*

DEPARTMENT OF STATE,

*Washington, 6th April, 1822.*

SIR: Your letter of the 9th of March was, immediately after I had the honor of receiving it, laid before the President of the United States, by whom it has been deliberately considered, and by whose direction I am, in replying to it, to assure you of the earnestness and sincerity with which this Government desires to entertain, and to cultivate, the most friendly relations with that of Spain.

This disposition has been manifested, not only by the uniform course of the United States, in their direct political and commercial intercourse with Spain, but by the friendly interest which they have felt in the welfare of the Spanish nation, and by the cordial sympathy with which they have witnessed their spirit and energy, exerted in maintaining their independence of all foreign control, and their right of self government.

In every question relating to the independence of a nation, two principles are involved, one of *right*, and the other of *fact*; the former exclusively depending upon the determination of the nation itself; and the latter resulting from the successful execution of that determination. This right has been recently exercised, as well by the Spanish nation in Europe, as by several of those countries in the American hemisphere, which had for two or three centuries been connected as colonies with Spain. In the conflicts which have attended these revolutions, the United States have carefully abstained from taking any part respecting the right of the nations concerned in them, to maintain or new organise their own political constitutions, and observing, whenever it was a contest by arms, the most impartial neutrality. But the civil war in which Spain was for some years involved, with the inhabitants of the colonies in America, has, in substance, ceased to exist. Treaties equivalent to an acknowledgment of independence, have been concluded by the commanders and vice roys of Spain herself, with the Republic of Colombia, with Mexico, and with Peru; while, in the Province of La Plata, and in Chili, no Spanish force has, for several years, existed, to dispute the independence which the inhabitants of those countries had declared.



Under these circumstances, the Government of the United States, far from consulting the dictates of a policy questionable in its morality, yielded to an obligation of duty, of the highest order, by recognizing as independent states, nations, which, after deliberately asserting their right to that character, have maintained and established it against all the resistance which had been, or could be, brought to oppose it. This recognition is neither intended to invalidate any right of Spain, nor to affect the employment of any means which she may yet be disposed or enabled to use, with the view of reuniting those provinces to the rest of her dominions. It is the mere acknowledgment of existing facts, with the view to the regular establishment, with the nations newly formed, of those relations, political and commercial, which it is the moral obligation of civilized and Christian nations to entertain reciprocally with one another. It will not be necessary to discuss with you a detail of facts, upon which your information appears to be materially different, from that which has been communicated to this Government, and is of public notoriety; nor the propriety of the denominations which you have attributed to the inhabitants of the South American provinces. It is not doubted that other and more correct views of the whole subject, will very shortly be taken by your government, and that it will, as well as the other European governments, shew that deference to the example of the United States, which you urge it as the duty or policy of the United States to shew to theirs. The effect of the example of one independent nation upon the counsels and measures of another, can be just, only so far as it is voluntary; and as the United States desire that their example should be followed, so it is their intention to follow that of others, upon no other principle. They confidently rely that the time is at hand, when all the governments of Europe friendly to Spain, and Spain herself, will not only concur in the acknowledgment of the independence of the American nations, but in the sentiment, that nothing will tend more effectually to the welfare and happiness of Spain, than the universal concurrence in that recognition.

I pray you, sir, to accept the assurances of my distinguished consideration,

JOHN QUINCY ADAMS.

DON JOAQUIN DE ANDUAGA,

*Envoy Extraordinary and*

*Minister Plenipotentiary from Spain.*

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( No. 19. )

*Don Joaquin de Anduaga to the Secretary of State.*

[TRANSLATION.]

SIR: I had the honor of receiving your note of the 6th instant, in which you were pleased to inform me that this Government has recognized the independence of the insurgent provinces of Spanish

America. I despatched immediately to Spain, one of the Secretaries of this legation, to carry to his majesty news as important as unexpected; and, until I receive his royal orders upon the subject. I have only to refer to my protest of the 9th of March last, still insisting upon its contents, as if its substance were repeated in the present note.

With the greatest respect, I renew the assurance of my distinguished consideration.

JOAQUIN DE ANDUAGA.

*Philadelphia, 11th April, 1822.*

( No. 20. )

*Don Joaquin De Anduaga to the Secretary of State.*

[TRANSLATION.]

SIR: As soon as the news was received, in Madrid, of the recent occurrences in New Spain, after the arrival, at Vera Cruz, of the Captain General and Supreme Political Chief, appointed for those provinces, Don Juan O'Donoju; and some papers were seen relative to those same transactions; it was feared, that, for forming the treaty concluded in Cordova, on the 24th of August last, between the said General, and the traitor, Colonel Don Augustin Iturbide, it had been falsely supposed that the former had power, from his Catholic Majesty, for that act, and in a little time the correctness of those suspicions was found; as, among other things, the said O'Donoju, when, on the 26th of the same August, he sent this Treaty to the Governor of Vera Cruz, notifying him of its prompt and punctual observance, he told him that, at his sailing from the Peninsula, preparation for the independence of Mexico was already thought of, and that its bases were approved of by the Government, and by a commission of the Cortes. His Majesty, on sight of this, and of the fatal impression which so great an imposture had produced in some ultra-marine provinces, and what must, without difficulty, be the consequence among the rest, thought proper to order, that, by means of a circular to all the Chiefs und Corporations beyond seas, this atrocious falsehood should be disbelieved; and now he has deigned to command me to make it known to the Government of the United States, that it is false, as far as General O'Donoju published beyond his instructions, by pointing out to it, that he never could have been furnished with other instructions than those conformable to constitutional principles.

In compliance with this order of His Majesty, I can do no less than observe to you, Sir, how unfounded one of the reasons is in your note of the 6th instant, for the recognition by this Government of those of the Insurgent Provinces of Spanish America; that it was founded on the Treaty made by O'Donoju with Iturbide; since, not having had that power, nor instruction to conclude it, it is clearly null, and of no value.

I repeat to you, Sir, the sentiments of my distinguished consideration, and pray God that you may live many years.

JOAQUIN DE ANDUAGA.

*Philadelphia, 24th April, 1822.*

( No. 21. )

*Don Joaquin de Anduaga to the Secretary of State.*

TRANSLATION.

PHILADELPHIA, 11th October, 1822.

SIR: I have the honor to transmit to you, a copy of a despatch which has been sent to me by the Political Chief of the island of Porto Rico, relative to the capture of the Spanish privateer, *Panchita alias Palmyra*, by the United States' vessel of war, *the Grampus*; and another, of the declaration delivered to the Spanish Vice-Consul in Charleston, by the captain of the said privateer. Both documents, notwithstanding their having been dictated by persons, and in places far apart, are so consistent in the facts to which they refer, that there can be no doubt of their certainty.

The circumstance of the capture of the *Panchita* are as follows: Having approached the *Grampus*, to deliver an official letter to her captain, having the Spanish flag and pendant flying, and, moreover, the parliamentary white flag at the foretop, the *Grampus* poured into her a discharge of her artillery, with such effect that the *Panchita* was continually in danger of sinking, and had to surrender. The attack, the discharge, the assassination of a Spanish mariner, the wounds of others, and the destruction of the *Palmyra*, was all the work of an instant, without any preceding altercation or dispute; and as scarcely could have been done if the two nations had been at war, because, in this case, the commander of the *Grampus*, before the attack, would have demanded a surrender. The succeeding conduct was agreeable to such a beginning. He caused to be put in chains and irons one part of the crew and Spanish officers, guarding the rest with sentinels in view; he first carried his prize and prisoners to St. Thomas, where he celebrated his victory with feasting and drinking; from thence he sent the wounded to Porto Rico, and, eventually, he carried the privateer and the rest of the crew to Charleston, where they were put into the public prison, being conducted thither in a manner the most insulting and ignominious.

This is the purport of the subjoined documents; but, not satisfied with the evidence which appears from them, I endeavored to procure information from the various publications which have been made, in the newspapers of this Republic, upon this subject, of the motive which had impelled the commander of the *Grampus* to commit so unheard of an outrage: and, at last, in the National Gazette of this city, of the

7th instant, I saw the opinion given by Judge Johnson, in this case; the result of which was, that the aforesaid commander, when in St. Thomas', received a complaint from the captain of an American merchant vessel, the *Coquette*, of having been robbed of some effects, by the mariners of a boat which had been sent to examine her, by a privateer, the name of which he did not know, and gave him her marks; that Captain Gregory was persuaded that they were those of the *Palmyra*, and that this was the reason he had for attacking her. It does not appear that he stopped to investigate the truth of the complaint; and, upon the simple word of an individual, he hurried to attack a vessel belonging to a nation in friendship with his own, and to sacrifice the lives and property of Spanish citizens. Besides, by the subjoined declaration of Captain Escurra, you will see, that the accusation made by the captain of the *Coquette* was false; and that, if the individuals in the boat, who came to examine his vessel, committed any trifling excess, they were restrained in the act, and the guilty reserved for future punishment. But yet, admitting the truth of the complaint, the same Judge Johnson in his opinion says, that those, only, who had committed the crime ought to be punished, and by no means the officers and the rest of the crew to which they belonged. Yet Captain Gregory, with his impetuosity, sacrificed the lives of those who were not yet accused, and the property of the owners of the privateer who never could be so. Very clear is the conduct which the captain of the *Coquette* and of the *Grampus* ought to have observed, if they believed the offence made out, to have demanded of the captain of the *Palmyra* the punishment of the guilty, and if that had been refused, to give information to this government, to which that of Spain would have had the pleasure of giving the most prompt and complete satisfaction. Far from this, the Spanish flag has been insulted and attacked, Spanish citizens killed and wounded, Spanish property plundered and carried away on the high seas. Such atrocities call for a prompt and severe punishment; and, I believe, the informing you of them, sir, sufficient to persuade me, that the President, pursuing the principles of justice which characterize him, will be pleased to give the most prompt and determined orders that the *Palmyra* be immediately restored and delivered to her captain, her crew set at liberty, satisfaction made for the immense damages caused to the owners of the privateer; and that, to give to Spain the satisfaction which is due to her for the outrage which has been committed on her in this circumstance, he will order an inquiry, in the competent tribunal, into the conduct of Captain Gregory, that he may be punished as those deserve who so scandalously violate the general laws of civilized nations, and the treaties and particular connexion of two friendly powers.

I await your orders, sir, and renew the assurance of my high consideration.

JOAQUIN DE ANDUAGA.

(No. 22.)

*Don Joaquín de Anduaga to Mr. Meade.*

[TRANSLATION.]

PHILADELPHIA, *October 16, 1822.*

SIR: I have received your letter of the 10th of the present month, in which you are pleased to communicate to me that the Commission established at Washington, in fulfilment of the treaty of 22d Fébruary, 1819, had judicially declared, on the 17th of June last, its intention of considering as null the liquidation made by the Spanish Government of the claims which you had against it, and of demanding other proofs of their validity and justice, concluding with asking me if you can be certain of the intervention of Spain in your favor, and that, in case of necessity, the documents, proceedings, and evidence, to which you alluded in the letter which you addressed to me in April of this year, would be presented?

What you communicate to me upon the resolution of the commission, has surprised me above measure, and I am persuaded that it will not persist in it, when it reflects on the injustice which it contains, and the notable injury which it does to my Government.

The obligation and the desires of the Commission, in the examination of your claim, can be no other than that of being convinced of its justice, in order to adjudge to you its amount. For this purpose they ought to demand of you the most authentic and credible documents that are known in the country in which your claims took place, and if you exhibit them, and prove that they have the greatest character of authenticity, and that they are authorized by the tribunals established for that purpose in said country, and by the persons to whom, being at the head of the Government, entire credit should be given, there being neither corporations nor individuals more elevated, and in whom greater confidence may be placed, it is clear that the Commission cannot ask for more satisfactory evidence. Yet the liquidation which was made to you by the Spanish Government, took place at the instances of the Minister of the United States at Madrid, was not the work of subjects chosen by the ministry, but of the most respectable tribunals of Spain, was not examined by one only, but by various commissions, composed of persons of the greatest probity, high rank, and little disposed to favor you; and, at last, after the most minute proceedings, received the sanction of the King. It is worthy of notice, that, when all this was done, there was no probability that the United States would be obliged to pay this debt, and that, when the liquidation which was made to you was communicated to the Minister of the United States at Madrid, by the Minister of State, he not only made no difficulty, but he returned thanks in the name of his Government, and appeared very much satisfied with it. This liquidation, thus sanctioned by his Catholic Majesty, admitted and approved by the Minister of the United States, is what you presented to the Commission; and what document more convincing can

be given by any government? Will the Commission give more credit to the signature of a notary, of a merchant, than to the testimony of the Council of Finance, of the great tribunal of accounts, of the Treasurer General, Minister of Finance, and, in one word, of the King himself? Will the Commission refuse its credit to the Monarch and authority to their constituents, the President of the United States? Can it be doubted, that Spain made with the most scrupulous exactness a liquidation which, in the time of her greatest fiscal distresses, she thought herself bound to satisfy?

Although I am persuaded that you have made these reflections, I thought it my duty to point them out, in order to observe to you the natural consequence to be deduced from them, that the Spanish Government will consider it as a grievous insult to see the testimony considered as null, which, in Spain, is acknowledged as the most sacred and respectable; that she will never consent that the legality and integrity with which your liquidation was made, should be placed in doubt, which has all the characters of authenticity which could be given to it; and, in fine, that, although it were practicable to collect again the documents which served to make the aforesaid liquidation, his Catholic Majesty knows too well what is due to his high dignity, to the reputation of his Ministers, and to the integrity of his tribunals, to admit that a foreign Commission should think itself authorized to revise his decrees. As to the rest, you may be assured that I am ready to render you what good offices you may think necessary with this Government.

God preserve you many years.

JOAQUIN DE ANDUAGA.

(No. 23.)

[TRANSLATION.]

*Don Joaquin de Anduaga to the Secretary of State.*

NEW YORK, December 11, 1822.

Sir: The Vice Consul of Spain, at Charleston, has informed me, under date of the 28th of November last, that a certain Pereyra, a native of the Havana, detained in that prison, had been condemned as a pirate.

Enclosed, I have the honor to send you an original, a judicial information, taken at the Havana, in which the innocence of the Pereyras of the crime of piracy is not only proved, but that they were forcibly torn from their firesides, by the crew of an American vessel of war, and their property destroyed, in consequence of a violation of the Spanish territory, which produced the ruin of said family. In these circumstances, I pray you, sir, as the pressure of the case requires, to be pleased to obtain from the President an order for the suspension of the sentence fulminated against Pereyra, in order that his cause may be re-considered, with the presence of the subjoined document;

and that, if the truth of its contents be proved, Pereyra may be set at liberty, and the violators of his Catholic Majesty's territory may be punished, and the damages and injuries originating from this crime be repaired.

I repeat my respects to you, sir, assuring you of my high consideration.

JOAQUIN DE ANDUAGA.

(No. 24.)

*Don Joaquin de Anduaga to the Secretary of State.*

[TRANSLATION.]

NEW, YORK, 14th December, 1822.

SIR: The expedition formed in the ports of this Republic, and which sailed from thence in the month of August last, to conquer the Island of Porto Rico, and to separate it from Spain, has fixed the attention of all Europe. The effect which this extraordinary event has produced on the citizens of the United States, proves, to a demonstration, the sentiments of virtue and probity which animates an immense majority of them, and that the attempts which, unfortunately, so frequently stain the meritorious reputation of these inhabitants, are the work of a small number, and are felt, and detested by the mass of the nation. The publications made on this noisy subject, in all the newspapers of the Union, clearly display this truth; and, at the same time that I admire and respect the virtues and sensibilities of the American people, I can do no less than give them the tribute of my sincere gratitude, for the indignation they have shewn at seeing their laws so scandalously trampled upon, and a nation, their friend, and from which they have received such great proofs of esteem and regard, so perfidiously dealt by.

The nature of the aforesaid expedition, the manner in which it has been framed, the publicity which it had before its sailing, the criminality or negligence which has appeared in the officers of the United States, are so odious, and so clearly is it the interest of the Government to shew to the whole world, for its own reputation, that, far from approving such excesses, it hastens to repress them, and to punish them, as soon as they come to their knowledge, that I flatter myself that the bare mention which I have made to you, sir, of this event, in my former notes, was sufficient for the President to have taken those means dictated by his justice, that the delinquents should suffer the punishment which they deserved; that the conduct observed on this occasion, by the officers of the customs, should be examined, and to the end, that, by means of some communication, I should have been enabled to calm the uneasiness and concern which have been caused to his Catholic Majesty, by an event so opposite to the friendship which unites him with this Republic, and to the laws of all nations.

I will not do the President the injustice, to doubt for a moment, that he has taken the measures which public vengeance and the honor of this Republic demand; but I must express how much I am hurt, that in so long a time you have not had the goodness to give me any explanation on so important a subject, and the means of fully acquainting his Catholic Majesty with the object I have just mentioned.

Such is the publicity of the aforesaid expedition, of its authors, of those who are parties to it, and of its event, that I think I may dispense with distracting your attention with the particulars, except that I ought to fix it upon the circumstance, of which I am assured, of Mr. Irvine, one of the chiefs of it having been claimed by the Captain of the United States' corvette the *Cyane*, from the Governor of Curacao, who had arrested him upon the petition of Spanish officers. If this circumstance should be certain, it would give rise to consequences which it is impossible to admit, and I am persuaded that the President will reprove the conduct observed, in this case, by the commander of the *Cyane*, contrary, no doubt, to the instructions and intentions of his Government.

Although I anticipate the communication the President will be pleased to order me relative to the said expedition, which can be no other than that which the honor of this Republic and justice imperiously claim, I take the liberty of asking you, sir, to have the goodness to transmit it to me as soon as possible; my object in this request being to be able to dissipate, without more delay, the anxiety and uncertainty with which the silence of this Government, upon a case so public and scandalous, cannot fail to inspire his Catholic Majesty and all the Spaniards.

I repeat, sir, that I am at your disposal, assuring you of my very high consideration.

JOAQUIN DE ANDUAGA.

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(No. 25.)

[TRANSLATION.]

*Don Joaquin de Anduaga to the Secretary of State.*

NEW YORK, 6th January, 1823.

SIR: I have the honor to transmit to you a copy of a note, which, under date of the 3d September last, his Excellency Don Evaristo San Miguel sent to the Minister Plenipotentiary of the United States near his Catholic Majesty. By that you will be pleased to observe, that his Majesty has not thought himself bound to accede to the broad and free interpretation which the President has given to the articles two and seven of the treaty of 1819, concerning the artillery and munitions of war in the Floridas, at the time of the delivery of those provinces, inasmuch as that interpretation would be injurious to Spain; and that he demanded, according to the literal tenor of the



second article, the delivery of said artillery and other effects, his majesty relinquishing the claim which he thought he had upon this government to furnish provisions for the Spanish troops which were transported from the said provinces, and binding himself to reimburse the amount of the rations which were furnished, as soon as the proper account of them should be presented, and the orders for the delivery of the artillery, &c. should be furnished.

His Majesty does not doubt that the President, convinced of the justice and solidity of the reasons which have produced this determination, will not delay a moment in giving orders for the delivery of the artillery and other effects, and he has thought proper to command me to request it, as well as an account of the rations which were furnished to our troops by this government. He has, moreover, authorized me, in case this government should wish to purchase the whole, or any part, of the effects which ought to be delivered to us, to listen to its propositions of purchase, and to transmit them to his Majesty, observing to you, sir, that, if it shall be preferred, that a valuation be made by experienced persons nominated by both parties, the one on our side will be pointed out when his Majesty is informed of the wishes of the President in this particular.

It being urgent for my government to know, as soon as possible, the intentions of the President relative to this business, it has been pleased to order me, to pray of you sir, to have the goodness to communicate them to me as soon as may be possible; and, persuaded that you will cheerfully comply with my wishes, I confine myself to renew to you the assurances of my high consideration.

JOAQUIN DE ANDUAGA.

( No. 25—a. )

[TRANSLATION]

*Copy of a note transmitted on the 3d of September, 1822, by his Excellency the Secretary of Despatch of State, to the Minister Plenipotentiary of the United States at Madrid.*

SIR: The Minister at Washington duly informed his Majesty of the disputes between the Spanish and American Commissioners, charged with the delivery of the Floridas, relative to the interpretation, which was attempted to be given to the 2d article of the treaty, by pretending, that, in the word *fortifications*, the artillery and munitions of war ought to be considered as included. This point being discussed by the respective Commissioners, they came to a provisional agreement, by which it was stipulated, that the effects should remain in deposit, until their Governments decided upon the business in question.

The principal reason, which the Commissioners of your Government alleged for supposing that the artillery and munitions should be considered as included in the cession of the fortifications, consisted in this, that the transportation of those effects, not having been pro-

mised in the 6th article, it must be understood to have been the intention of the negotiator, that they should be comprehended in the words fortifications. His Majesty's Minister in the note which he sent to Mr. Adams, on the 27th July, 1821, shewed that the artillery and munitions could not be comprehended in the fortifications, which consist of works built to defend a point in the way; that in the word *Bar-racks* the utensils which are in them, for the service of the troops, are not comprehended. These and other reasons being alleged by the Minister, to shew that the cession referred to the buildings, and in no wise to the moveable effects, which they might contain, he requested that, in fulfilment of the 2d article of the treaty, the artillery, munitions, and instruments of war, in both the provinces at the time of the delivery, should be given over to the Spanish Commissioners, that they might provide for their transportation, agreeably to the orders, which they had received.

In the answer which Mr. Adams gave, on the 13th of August, 1821, to his Majesty's Minister, he informs him of the correspondence, which had taken place upon the subject, between the respective commissioners, and shews that the conduct of those of his Government had been approved of, as being conformable to the instructions which had been communicated to them. Mr. Adams added, that it was certain, that, in the 2d article of the treaty the cession of the artillery &c. was not comprehended, because it was not expressed in precise terms, but that it was no less certain, that, by the 7th article, the United States were not obliged to furnish provisions for the transportation of the Spanish troops, inasmuch, as it was not expressly mentioned; that this being the strict and literal sense of each of the articles, the President had given a broad and free interpretation to their tenor, by ordering that the necessary provisions should be furnished for the transportation of the Spanish troops, although they were not expressly mentioned in the 7th article, and considering the artillery, and munitions of war, in the fortifications, as ceded, although not expressly mentioned in the 2d article, and lastly, that the President was persuaded that the Spanish Government would not insist, that the 2d article should be interpreted rigorously, and the 7th literally, but that it would agree to give a liberal sense to both, knowing that that interpretation emanated from the same principle, and that if in one case it was favorable to the United States, in the other it was so to Spain.

The King's minister made it appear, in his answer to Mr. Adams, on the 23d of August, that there was not, between the 2d and 7th articles, the analogy which was supposed, because, setting aside that the Spanish negotiator was no doubt well apprized, that, in the transportation of the Spanish troops, it was understood the provisions should be furnished at the expense of the United States, as the transports were, there was not, and could not be, the pretended equality in the interpretation of both articles, because Spain would have ceded for a small number of rations the value of an artillery and munitions of great consideration, and the said Minister concluded his note by

shewing; that he would inform his Government of the correspondence, which had passed upon the subject, that it might settle this point, by a common agreement, with that of the United States.

In the reply of Mr. Adams of the 25th of September, he brings forward the same arguments as in his former, insists upon the mutual convenience of the liberal interpretation of the articles, and leaves this point to the decision of both governments.

These are the proceedings which have taken place in this business and the state in which it is left. His majesty considers it as superfluous, after the discussion which has been had upon this point, to give new reasons in support of those given by his minister at Washington, to shew that the artillery, munitions, and instruments, are not comprehended in the cession of the fortifications. Both yourself, sir, and your government, have in your possession a copy of the cedula, order, which his majesty addressed to the captain general of the island of Cuba, under date of the 24th of October, 1820, and in that he tells him, "that the *papers and effects* which might belong to the nation, and might not be *comprehended and mentioned*, in the expressed clauses of the cession, he should cause to be carried and transported to another point of the Spanish possessions.

Your government cautiously examined the contents of the order, and never avowed pretensions to the artillery, although the phrase, *the other papers and the effects, which may belong to the nation*, could not and ought not to be understood as having reference except to the papers not comprehended in the cession, and *to the artillery and munitions of war*; the *moveable effects* are not comprehended in the cession of the *immoveable* unless *express mention* of it is made, and the 2d article of the treaty speaks of fortifications and public buildings, and does *not name* the artillery, nor the effects which they might contain. Your government, sir, knows the irresistible force of these reasons, and hence it is, that it has had no recurrence to *an allegation of right* but to *interpretations*, which it supposes reciprocally advantageous. It is evident, that the pretended utility which the President supposes would result to both nations, from the liberal interpretation of the 2d and 7th articles of the treaty, being admitted on the part of the Spanish government, would cause injury of great consideration to Spain, because, in virtue of it, the United States would receive all the artillery, munitions, and instruments of war, in both Floridas, the value of which is nearly about a hundred thousand dollars; and Spain, for a pretended equivalent, the provisions which were furnished to the transported troops, which, to judge by those given in West Florida, would not exceed the sum of 2,500 dollars.

It being demonstrated, that the supposed reciprocity in the interpretation of the articles does not exist, his majesty omits giving reasons sufficiently well founded without having recourse to interpretations to make it appear that the provisions for the Spanish troops, ought to have been at the expense of your government; since the 7th article being extended by the Spanish negotiator, appears to raise a doubt, lest he wished to include the rations in the words *transports*,

and that he made no particular expression of them from supposing that no doubt could arise upon the matter: because in the *transports* for an expedition, speaking in a military manner, the provisions are included.

The king does not wish to make a merit of these and other reasons, to shew that the provisions ought to be at the expense of your government, and adhering scrupulously to the literal text of the articles, he yields the right which he believes he has by the 7th article, to the furnishing by the United States of the provisions for the transportation of the Spanish troops, and demands that delivery be made, agreeably to the 2d article, of the artillery, munitions, and instruments of war, &c. which were in the magazines and fortifications of both Floridas, at the time when those provinces were delivered up to your government. In virtue of this mode of conciliating the interests of both powers in conformity with the literal tenor of the treaty, his majesty's government is ready to make good to yours the sum which has been paid for furnishing the Spanish troops with provisions in their passage to the island of Cuba, as soon as the corresponding account of its amount is presented, and the proper orders have been despatched for placing the artillery and other effects at the disposal of the Spanish government.

His Majesty being of opinion that many of the articles which ought to be delivered over to Spain, may be an accommodation to your Government, orders me to acquaint you, for the information of your Government, that it would not be inconvenient to sell the effects which might be of use to the United States, hearing their propositions, and making, in case of necessity, a valuation of them, by skillful men, appointed by both Governments.

The King promises himself, that, by this means, agreeably to the literal tenor of the Treaty, this business will be definitively concluded, which could have been terminated, at first, in the United States, between your Government and His Majesty's Minister, without having given occasion to the disagreements, raised by this subject, between the Commissioners of both Governments; disagreements which your Government foresaw would occur, as the result of the instructions communicated by Mr. Adams to General Jackson, under date of the 23d of March, 1821. It has been a matter of great grief to the King, that the American Government, which extended its foreknowledge, to understand that, from the artillery not being delivered to the Spanish Commissioner, disgusts would originate, should not have, in obedience to justice, and to the desire which has been manifested, to avoid every cause of complaint between the two powers, hindered this compromise between the two Commissioners of both Governments, who, with contradictory orders, could not agree among themselves. To this, and other acts, which might have been avoided, His Majesty attributes the disagreements which have taken place between the Commissioners of both Powers; and that an operation so simple as the delivery of the Floridas, has been accompanied with violent steps, and insults offered to the Spanish Governors; and it is as certain, that

when the minds are exasperated in the commencement of a business, although it be for a cause of little import, it is not easy to bring it to a conclusion, with the calmness, good faith, and cordiality, which are necessary for its amicable and happy conclusion.

I hope, Sir, that you will communicate this note to your Government, and I do the same, on my part, to His Majesty's Minister, at Washington, that an agreement may take place with the Federal Government upon the points of which it treats.

I renew to you, Sir, the assurances of my most distinguished consideration, and pray God that you may live many years.

JOAQUIN DE ANDUAGA.

( No. 26. )

*Don Joaquín de Anduaga to the Secretary of State.*

[TRANSLATION.]

NEW YORK, February 23, 1823.

SIR: In the month of January last, the United States' brig of war Spark being in the port of Havanna, Captain Howell, of the American ship Nancy Elenora, presented himself to her commander, and informed him that a schooner, which had robbed him two months before, was then in the very port of Havana. The vessel accused was the Spanish merchantman named the Catalan Nymph. It appears that the commander of the Spark was with Captain Howell and two of his sailors, at the house of the Commercial Agent of the United States, Mr. Warner, and caused some declarations to be extended, which said that the robbery had been committed in October last, near Honduras. Afterwards, without making the least representations to the authorities of the Havana, the Spark set sail, convoying the Nancy, at the same time that the Catalan Nymph sailed for Campeachy, and scarcely was she out of port when she was captured by the Spark, and sent to Baltimore for adjudication for the pretended crime, into which port not having been able to enter for the ice, she has been carried to Norfolk. This is what Captain Howell and individuals of the Spark have published.

According to the official information which I have received from Norfolk, it turns out that the schooner Catalan Nymph, Captain Don Pablo Daunes, is a merchant vessel, sailing between the Havana and Campeachy, and carries one cannon and some muskets, to defend herself against the pirates which infest the coast, her crew consisting of ten men; that, on the present occasion, she had sailed from the Havana, with a cargo of brandy, wine, liquors, coffee, fruits, cloths, and other articles, belonging to various individuals, and twelve passengers; that, upon her sailing from the Havana, about three miles from the Moro, the Spark began to give chase to the Nymph; that the Captain, wending at this, tried to return to the Havana, but the Spark cut

off her retreat, and her commander made him come on board of him with his papers; that he afterwards ordered an officer with Captain Howell, to go to the schooner, who did not recognize any individual, until at last Howell said that he recognized the boatswain as one of the pirates, of whom he made a declaration; that Captain Daunes represented to the commander of the Spark, that he should examine his papers and he would see that his vessel was a merchantman, or that he should carry her to the Havana, where he could deliver the boatswain to the authorities; that the said commander refused every thing; that, upon the arrival of the Nymph at Norfolk, the Captain and the ten sailors of the Nymph were publicly carried to prison, escorted by a troop of marines, the latter handcuffed; that the Spanish Consul, having had recourse to the competent authority, obtained, by the law of habeas corpus, that the Captain and crew should be set at liberty, except the boatswain, Nicholas Gargoy; and that two of the sailors, in consequence of such atrocities, were dangerously ill.

I have the honor to enclose to you copies of the declaration of Captain Howell, and of the representation which Captain Daunes has made to me: it appearing by this and other documents, that, on the 16th of October, when the robbery was said to have been committed, the Catalan Nymph was at Sisal, loading for Havana.

From this relation it results—

1st. That the United States' brig of war Spark, being in the port of Havana, her commander received from the captain of another merchant vessel, of the same nation, a declaration that he had been plundered at sea by a schooner which, at that time, was in the very port of Havana.

2dly. That the said commander took, before the Commercial Agent of the United States, in the said city, a declaration of the aforesaid Captain Howell, upon his complaint.

3dly. That, without further examination, he resolved to capture the Nymph as soon as she should sail from the port.

4thly. That he did not make the least attempt with the competent authorities, to investigate the foundation of the accusation, nor to punish the guilty, if it should be certain.

5thly. That he carried his intention into effect by actually capturing the Nymph in sight of the port.

6thly. That he refused to examine the papers of Captain Daunes, and the just representations which he made to him.

7thly. That, by sending the Catalan Nymph to Norfolk, the proprietors and freighters of the vessel have suffered immense losses, and Spanish citizens have been treated in a manner the most unworthy, and two of them have been rendered so ill as to endanger their lives. And, in a word, that the commander of the Spark, in union with Mr. Warner, have erected, in the port of Havana, a tribunal to try Spaniards in the said city, to condemn them without a hearing, and to carry their sentence into execution in a manner so vile and treacherous, that only a few examples of similar conduct can be met with among the pirates, whom the commander of the Spark has orders to pursue, and not to imitate.

I think it needless to observe that the commander aforesaid has covered with ignominy, upon this occasion, the uniform which he wears, and that the outrage which he has committed upon Spain is such as no doubt the Government of the United States will not delay a moment in punishing as a crime, no less injurious to Spain than degrading to this Republic; in this manner proving to Europe that it wishes to preserve with his Catholic Majesty the ties which unite both nations. This provision is so much the more urgent, inasmuch as, if it should be tardy in the execution, it is impossible to calculate the effect which this delay will have in the Spanish dominions, into the ports of which the ships of war of the United States cannot be admitted with safety, after so scandalous an example. Thus, then, in compliance with the orders which I have from his Majesty to promote, with all my power, the means which may draw more close the friendship which he wishes to maintain with this Republic, and to remove what may be capable of relaxing it, I pray you, sir, be pleased to lay what I have explained before the President, and obtain from his justice the due punishment of the commander of the Spark, the restitution of the schooner Catalan Nymph, the liberty of the boatswain, and security for the immense losses and damages which the owners and shippers of the said vessel have sustained.

The importance of this business, and my anxiety to avoid the deplorable consequences which may ensue in the Island of Cuba, to the trade between the Spaniards and Americans, oblige me to request that you will be pleased to answer this note as soon as possible.

I repeat to you, sir, the assurances of my most distinguished consideration.

JOAQUIN DE ANDUAGA.

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( No. 26.—a. )

*Don Pablo Daunes to Don Joaquin de Anduaga.*

[TRANSLATION.]

NORFOLK, February 12, 1823.

YOUR EXCELLENCY:

Don Pablo Daunes, captain of the Spanish schooner named the Catalan Nymph, the property of Don Bartolomé Yglesias, Don José Calvet, Don Domingo Zubira, and Don Gregorio Garcia, passengers in said schooner and owners of some part of her cargo, all Spaniards, in their name, and in that of the others interested, with the greatest respect, explains to your Excellency, that the said schooner having sailed from Havana on the 26th of January last, cleared by that custom house and the respective authorities, bound to Campeachy, were detained on their voyage by the brig of war of the United States named the Spark, her commander Wilkinson, under pretext of a

declaration which it appears an American captain made to him in the Havana, that the said schooner had plundered him. Having made Captain Daunes come on board of him, he caused the said American captain, with two sailors, to appear; whom he ordered, with his boat armed, on board the *Nymph*; they caused all the crew to appear, and the American captain referred to, after having hesitated some time, at last said he recognized her to be the same schooner which had plundered him; and pointed to one of the individuals (who is the boatswain, Nicholas Gargoy,) saying, that he likewise recognized him; which, being heard by his two sailors, although doubtful, they agreed in the same. At the same moment the Commander, Wilkinson, captured her as a pirate, put the crew in irons, and a prize captain and crew to conduct her to the United States. Captain Daunes presented to him the papers, that he might see they were in due form, and represented to him that carrying a cargo of value belonging to various individuals, he should carry her to the Havana, and that there he would be assured that he was not a pirate, and that neither the schooner nor that individual had plundered any vessel, and, on the contrary, she was a vessel of such credit, that all the merchants preferred her for a cargo, and she always made voyages from Havana to Campeachy and Sisal, with valuable cargoes. The Commander, Wilkinson, would attend to nothing, nor look at the papers, wherefore Captain Daunes told him that he protested against the losses and damages which might result to the interested from an act so violent. Conducted to this port by a prize officer and crew, she arrived on the 8th current, and on the 9th, in the morning, they publicly conducted to the prison, escorted by troops, Captain Daunes and the crew (the latter in irons) and told the three passengers they might go where they pleased. These proceedings would have been just, if they really were pirates, but being all persons of good credit in the Havana, for their conduct, to whom interests of consideration were entrusted, Captain Wilkinson should have examined the papers, and, in case of suspicion, have them carried to the Havana, reflecting, that a vessel with a cargo of so great value, which he himself saw sail, and which had not a crew sufficient for committing piracies, was a scandalous arbitrary act, contrary to the good understanding which subsists between the United States and Spain. The losses and damages which the owners of the schooner and cargo sustain, are incalculable; the expenses of the exponents in this country considerable, in virtue of her being a Spanish merchant vessel, with her papers in due form, not pirates, as Captain Wilkinson supposes, and the robbery which he attributes to her, being also a supposition, as upon the 16th of October last, which appears evident in the declaration, the robbery was committed near the Honduras, it can be easily proved, and even here, by letters which are in the possession of Captain Daunes, that at that time the schooner was in Sisal, loading for the Havana, and that she had never gone so far as those points. The invariable rules of justice and of the good understanding used by nations, and chiefly between the United States and Spain, imperiously demand that the Govern-



ment of the United States immediately order the restoration of the schooner and cargo to their owners, with security for all the losses, damages, and deteriorations, which may be the result of the said capture, inasmuch as it has been committed by one of their vessels and officers, without its being deserved, and contrary to every rule of justice, as, also, indemnification to the individuals of the crew of the stigma of pirates, and ill treatment which they have suffered, to which their refined conduct never caused them to be subjected: Therefore, the exponents intreat your Excellency, with the utmost submission, as their only protector, to be pleased to claim of the Government of the United States the restoration of the vessel and cargo, security for losses and damages, and indemnification which they solicit, which they hope from your accredited zeal, and whose life, &c.

PABLO DAUNES,  
DOMINGO ZUBIRA,  
GREGORIO GARCIA,  
JOSE CALBETE.

To His Excellency Don JOAQUIN DE ANDUAGA,  
Minister Plenipotentiary of His Catholic Majesty near the United States.

(No. 27.)

*Don Joaquin De Anduaga to the Secretary of State.*

[TRANSLATION.]

NEW YORK, 6th March, 1823.

SIR: Under date of the 14th of December of last year, I had the honor to address you a note requesting explanations on the expedition from these ports, for the conquest of the island of Porto Rico, and the disapprobation of the conduct of the captain of the United States' Corvette Cyane, in the claim which he was said to have made to the Governor of Curracoa in favor of Mr. Irvine, one of the chiefs of that expedition. Lately, I have received official letters from my Government, in which is energetically expressed the surprize of his Catholic Majesty at seeing the possessions of Spain attacked in a manner so public and scandalous, by the citizens of a power to which so great and so costly proofs have been given of its friendship; and, although it has appeared to him extraordinary that the President should have been ignorant of preparations made with so little secrecy, and that a collection of men, and of ships, laden with munitions of war, in the ports nearest to the capital, should have been able to be concealed from him; nevertheless, judging by his own sentiments, of those which he believed animated the President. he did not doubt that it was so, and that this Government, the instant it should have notice of such

an event, would hasten to take the most vigorous measures for the punishment of the delinquents, and for preventing such excesses in future; and, above all, that to prove to his majesty, and to all Europe, the indignation produced to it by this attempt, it would have been gratified in giving to the Cabinet of Spain the satisfaction and explanations which so odious a breach of the laws of nations, and of the friendship which unites this republic with Spain, so imperiously demanded. This persuasion was so natural, that it is very easy to calculate what effect it would have on the mind of his majesty, and on that of all the Spaniards, to know that this Government not only has thought proper not to give a spontaneous explanation on an event injurious to Spain, and which, in so shameful a manner, stains the good faith and reputation of this republic; but that an answer has been withheld, for so many months, to the notes which I have had the honor to address to it on this subject. The consequence which should be drawn from this, cannot escape your penetration. It is very clear that, if, from the ports of Spain, an expedition should depart for the attack and conquest of a province of the United States, and that his Catholic Majesty should not only not give, at the time, explanations of his ignorance and disapprobation of it, but that he should neglect the representations of the American minister at Madrid, the President would have a right to believe that that hostile measure had been carried into execution, if not with the consent of the Spanish Government, at least with its connivance. But if the conviction which I have of the equity of the President, and of his desires to maintain, with Spain, the amity which happily subsists, prevents me from drawing, in the case whereof I treat, that consequence, evident as it may appear, I cannot help seeing, in your silence, a singular indifference to the feelings of his Catholic Majesty, in respect to the attacks which his possessions and subjects receive on the part of the Americans. I know how painful this will be to my Government, and how grievous not to see its friendship towards this republic answered in a correspondent manner, nor the proofs which it has given of it; and anxious to tranquilize it, I take the liberty of requesting you to be pleased to answer my note of the 14th of December last, not doubting but that it will be such as will calm the inquietude and uneasiness which must be caused in the mind of his Catholic Majesty, by the expedition referred to, and by having left my notes unanswered.

I renew to you, sir, therefore, the assurance of my high consideration.

JOAQUIN DE ANDUAGA.

(No. 28.)

*Don Joaquin de Anduaga to the Secretary of State.*

[TRANSLATION.]

NEW YORK, 7th March, 1823.

SIR: I have the honor to send you enclosed, copies of the protest made in Pensacola by Don Jacinta Correa, captain of the Spanish schooner called the Carman, alias Galliga the Third, and of a judicial declaration made by the same, before the consul of Spain in New Orleans.

In both documents are set forth the capture of the said schooner by the United States ship of war Peacock, and the oppression and robbery committed by her crew, all which has been confirmed to me, by the Captain General of the Havana, and by the Consul of Spain in New Orleans. As the circumstances of these crimes are expressed in the enclosed documents, I avoid repeating them in this note, and shall rest content with calling your attention to three of the principal, which are, the Peacock having made the capture with the *Spanish flag*, the violation of the public correspondence between two provinces of His Catholic Majesty and the malicious contrivance of Capt. Cassin, in sending the crew of the Carman to Pensacola and the vessel to New Orleans, that there might be no one to defend her there. Such violations of all public law, and such refined perfidy, are so evident and odious, that I think it unnecessary to insist upon them, since it would be doing an injury to the sense and justice of this government. Notwithstanding the insidious precaution of Captain Cassin, scarcely had the courts of Pensacola and New Orleans examined the case, when the former declared the crew innocent, and set them at liberty, and the other ordered the restitution of the vessel, which saves me the trouble of proving the illegality of the capture, and it only remains with me to request that the President would be pleased to order satisfaction to the owners of the schooner Carman for the losses and damages, which they have sustained, and that the money and effects of which they have been plundered, be restored to the crew. This is what it concerns me to ask in favor of said individuals; but the just satisfaction of my government, the assurance in future of due respect to the Spanish flag, and the lives and property of Spanish citizens, impose upon me the obligation of speaking to you with that frankness which ought to subsist between two friendly powers, and whose interest it is to maintain the greatest harmony.

The injuries done by this country to his Catholic Majesty and to his subjects, are not confined to expeditions of individuals for the conquest of his provinces, to hostilities under the insurgent flag, to building armed ships for the enemies of Spain, to furnish these men with munitions of war, &c.; but they have gone to attack publicly the vessels of Spain by ships of war of the United States, and to trample up-

on Spanish citizens by American officers; the excess being carried to such a pitch, that his Catholic Majesty's territory is violated, and if a speedy check be not put to it, the Spanish commerce must be in dread of the ships of war of a nation, which is said to be friendly, as it would of another, with which it was in a complete state of rupture.

The violations of neutrality and of friendship between two nations, committed by individuals, always give room to the offended power, to believe that they have taken place, without the knowledge and against the will of the government of the aggressors, and that it will grant a competent satisfaction; but, when this is not only refused, and not even private citizens, but the ships and officers of that government give the insult and commit hostilities with its approbation, since it neither punishes them nor prevents them from continuing their aggressions, the illusion must cease, and, alarmed for the intentions of said government, the imperious obligation which it is under, of protecting its subjects, lays it under the necessity of demanding a frank explanation of them and indispensable provisions for the putting a stop to the scandal of acts which continue, could only be followed by consequences which his Catholic Majesty has a lively desire of avoiding, it being his most sincere wish to preserve inviolate the friendship which he professes towards this republic.

Vain have been my repeated remonstrances, to obtain satisfaction for the insults offered to my Government and fellow-citizens by the American officers. And if, in the Courts of the United States, the Spaniards have found justice. the Government has not only refused my petitions. but has not even given an answer to the greater part of my notes. The very sentences of the Courts prove the justice of my complaints against the said officers; and when it is seen, that this Government, in spite of these complaints and the opinion of the most eminent and just judges of this Republic, refuses to His Catholic Majesty the satisfaction which is his due, does not answer the representations of his Minister, and continues its protection and favor to the officers accused, the suspicion is allowed that its friendly sentiments towards Spain have undergone an alteration. This doubt will be extremely painful to His Catholic Majesty, wherefore I spend more time in requesting you to be pleased to clear it up, and this can be done in no other way than by giving to His Majesty the satisfaction which he has demanded for so great injuries, with the punishment of the officers who have committed them, and especially of Captain Cassin, and giving the most peremptory orders that they be not repeated.

The multiplied proofs of friendship, which His Majesty has given to this Republic, the sacrifices which he has made in its favor, and the utility which results to both nations, in the continuance of a good understanding between both, are to me a sure guarantee, that the President, deigning to take into consideration the important contents of this note, will be pleased to order such an answer to it as will at once dissipate the disagreeable impressions which the acts of the American officers have made, and assure His Catholic Majesty that his desires for the continuance of the strictest friendship with this Republic will be fulfilled.

I repeat my devotion to you, sir, and pray you to accept the assurance of my high consideration.

JOAQUIN DE ANDUAGA.

( No. 29. )

*Dn. Hilario de Rivas y Salmon to the Secretary of State, 15th April, 1823.*

[TRANSLATION]

SIR: Dn. Richard Meade, a citizen of the United States, addressed two letters, to my predecessor, his Excellency Dn. Joaquin de Anduaga, dated the 4th of April, and 10th of October, 1822, enclosing your correspondence with the Commissioners appointed, in virtue of the 11th article of the treaty, of the 22d of February, 1819, ratified by his Catholic Majesty, and exchanged in February, 1821, relative to the admission of certain claims, which are therein mentioned. The said Gentleman sent these documents to my Government, along with the answer, which he made to Mr. Meade, on the 16th of October, 1822, copy of which I have the honor to enclose to you.

His Majesty has been pleased to approve and sanction the said answer to Mr. Meade, and commands me to support his claims, and to represent to you, in the most friendly terms, but, at the same time, in the most energetic and solemn manner, against all opposition which may be attempted to be made, that the particular credit which said Meade had against the Spanish Nation, is not satisfied, but that, in virtue of the last treaty, the Government of the United States has taken it upon itself.

This credit is, in truth, the only one which has been solemnly acknowledged by his Catholic Majesty. It was executed at the pressing instances of the Minister of the United States, at Madrid, and its acknowledgement and final liquidation took place at a time and in circumstances which do not admit the least doubt to ensue as to its legitimacy and import.

The value of the credit was represented to both Governments, during the negotiation. Its liquidation could be effected only by the parties interested in the contracts, and in the damages and injuries by which an indemnification was claimed, and the investigation, with precision of the exact sum which was due, appeared to be a point of equal interest to both Governments. This was at least shewn and insisted on, with vigour, by the Government of the United States, before and after the date of the treaty, and his Catholic Majesty, when he acceded to its anxiety, desirous of shunning new causes of complaint, chose four of his counsellors from different tribunals, and commanded them to examine, scrupulously and in detail, all the circumstances regarding an account so complicated, and which required all the possible knowledge and intelligence of the laws of Spain and commercial regulations of the nation, to be able to form a just conception

of all the transaction. No subject of this nature has been ever considered so cautiously and with so much matureness, not only by the Commissioners appointed for that purpose, but latterly, by the Treasurer General, by the greater accountant's office, by the Minister of Finance, and lastly, it received the sanction of his Majesty.

In these circumstances, his Majesty thinks that he ought not to see with indifference, nor remain undisturbed, when an attempt is made to invalidate an act so solemn. The Spanish Nation was certainly responsible for the total amount of the acknowledged debt. The Government of the United States, by the latter ratification of the treaty, took upon itself this debt, in virtue of the 5th renunciation of the 11th (9th) article and with a full knowledge of its amount, which had been communicated long before the conclusion of the treaty, to the Minister of the United States, at Madrid, by his Majesty's Secretary of State, for the information of the American Government. Certainly, after all that had passed, it was not to be expected that a new investigation of the business should be judged necessary.

There cannot be a doubt, that if the treaty of the 22d of February, had not been concluded, Mr. Meade would have received from the Spanish nation the total amount of his debt, and his Majesty cannot comprehend the justice of the Commissioners in having attempted, in the first place, to reject entirely this debt, as not being comprehended in the treaty, and much less could his Majesty be persuaded that so solemn an act of his Government, an act which was in a great degree founded upon the interposition of the American Cabinet, and which was done in good faith, would have been afterwards placed in doubt by their agents.

The slight, which the commission of claims has endeavored to throw upon the most respectable authorities of Spain, and upon his Majesty himself, and consequently on the whole nation, has caused his Majesty great pain.

I have therefore the order of my Government to inform you, that it cannot keep silence when an act so incontestible is placed in doubt, and I beforehand protest solemnly and respectfully against any decision of the Commissioners appointed in virtue of the treaty, which invalidates in any manner the acknowledgment made by my Government of the total debt of Mr. Meade, agreeably to the certificate which they sent to him in consequence, and which is in their possession.

I have the honor to repeat to you, sir, the testimony of my distinguished and high consideration.

HILARIO DE RIVAS Y SALMON.

( No. 30. )

*Mr. Salmon to the Secretary of State.*

[TRANSLATION.]

28th April, 1823.

SIR: I recommend, very forcibly, to your attention, the letter of Dr. Pablo Chacon, a copy of which I have the honor to enclose, respecting the business of the Spanish schooner the *Ninfa Catalana*. My predecessor sent you two notes, dated the 23d, and 28th of Feb. last, concerning the unjust detention of this vessel, and the scandalous insulting of her crew, without any motive or cause whatever. His Excellency accompanied this sad truth with sufficient proofs; but, for the greater abundance, I now enclose other testimony, which I have just received from the Havana, of the process raised there by the consignee of the said vessel. You will find that it is in accordance with the other proofs, and forms, with them, one whole. But, what more evident proof can be required of the innocence of the whole crew, and of the atrocious injustice of the captors, than that the whole individuals of it being set free, in virtue of the *habeas corpus* in their favor?

Permit me, sir, to repeat, with efficacy, the representations of His Excellency on this business; and I pray you to obtain, from your Government, a decision prompt and satisfactory to His Majesty, and the subjects of Spain, so grievously injured in their reputation and interests

I renew, to you, sir, the assurance of my respect and high consideration.

HILARIO DE RIVAS Y SALMON.

*Don Sebn. Kindelan to Mr. Anduaga.*

[TRANSLATION.]

4th March, 1823.

In consequence of what I mentioned to your Excellency, in my official letter of 17th of February last, relative to the decree, by the Junta of Government of this national consulship, on the event which took place to the Spanish schooner named *Ninfa Catalana*, on her sailing from this port with the American brig of war *Spark*, I now send to your Excellency a copy of the memorial which Don Pedro Lopez, a merchant here, has presented to me, as consignee of the vessel; enclosing, at the same time, testimony of the process which has been raised upon the business, in order that your Excellency may be pleased to make the representations which you may think best, as well in regard of the vessel, as of the rest which is mentioned—I recommend, very particularly, to your Excellency, this business, in

which the national honor, and the interests of this trade, are concerned.

God preserve your Excellency many years.

SEBN. KINDELAN.

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*Memorial of Don Pedro Lopez.*

[TRANSLATION.]

HAVANA, 4th March, 1823.

Senor Superior Political Chief: Don Pedro Lopez, merchant of this city, and consignee of the Spanish schooner called the *Ninfa*, with due respect represents, That all the documents relative to the unfortunate business of the said schooner *Ninfa* being collected as they are, he accompanies them with legalized testimony, in order that you may be pleased to make suitable use of it; and for this purpose intreats you will be pleased to have the goodness to order the aforesaid documents to be laid before the Minister Plenipotentiary of our Spanish nation resident in the United States of America, with all the recommendations and energy which a case so extraordinary requires, in order that the offended honor of the Spanish flag may be repaired, the individuals harassed and maltreated, and the interests detained with the damages, costs, expenses, and losses which have been incurred, may be recovered, because it belongs to strict justice, and will be the favor which he hopes to merit from you.

PEDRO LOPEZ.

A true copy.

ANTONIO M. DE LA TORRE Y CARDENAS.

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( No. 30—a. )

*Testimony in the case of the Ninfa Catalana.*

[TRANSLATION.]

HAVANA, January 31, 1823.

PETITION.

Sor. Superior Political Chief: Don Pedro Lopez, merchant of this city, and consignee of the Spanish schooner *Ninfa Catalana*, Captain Don. Pablo Daunes, with the usual respect says, That being charged with the despatch of said vessel for the port of Campeachy, she sailed for that destination on the twenty-sixth of the present month, under the formal and cicumspect order which our laws prescribe; and when



I thought that she was pursuing the course of her voyage, yesterday a letter from her Captain was delivered to me, informing me of his having been detained, or rather captured and maltreated, by the United States' brig of war called the Spark; I being obliged, in such a case, to make the protest, which I duly present in testimony. By said document you will see at first, that the only pretext for such a proceeding is that a merchant Captain, also an American, complained to the Commander of the Spark that the boatswain and the schooner Ninfa herself coming from Cadiz, had robbed him; and when delicacy, the law of nations, that of reciprocal alliance and friendship, the laws of the territory, and the consideration just and due to its authorities legally constituted, might have dictated that he should have had recourse to the judicial power of this capital, in order that the accuser and accused might be heard in form, and the matter be determined as civilized nations are accustomed to do, the commander of the Spark feigned not to understand at all; he remained until the sailing of the schooner Ninfa to perpetrate the offence which produces the protest which I am about to make. From such a proceeding you will infer that the navigation, the commerce, and the property of the Spaniards, are subject to the caprice of a malicious man, who, without any appearance of justice, may wish to destroy at once the most sacred rights of men in society; that the laws and authorities of the Spaniards are of so little value and importance, that the simple will of one man renders them not only insignificant, but also insecure and so despised that with an unheard-of freedom, the said brig Spark has returned to enter this port, yesterday, bringing several passengers of the Ninfa with her; in virtue of this, and with a reservation of the rights of others who act with me, I entreat you, that, receiving as presented the protest which I now produce, you will be pleased to take into your superior consideration an act so scandalous, that the true spirit of general law and of the common laws may be put in force; what is necessary may be done, that this occurrence may not remain unpunished to prevent its progress; that the entire losses and damages may be made good; that the guilty be punished; that it may not be concealed from the respective Governments; and that we may be Spaniards in reality and not in theory. All which in justice I implore from you.

PEDRO LOPEZ.

*Decree on the Margin.*

HAVANA, January 31, 1823.

Pass it to the acting Auditor of War.

KINDELAN.

*Dictamen on the Margin.*

HAVANA, February 1, 1823.

Sor. Captain General: I think in the first place that the information should be received, on the facts of which this process treats, the petitioner producing the witnesses of the case, and with his merit he will supply what may be more conformable, saving always, &c.

FRAN. DEL CRISTO.

*Decree on the Margin.*

HAVANA, Feb. 1st, 1823.

I agree with the foregoing dictamen, and order that it may be fulfilled, and in virtue of it the information may be received which the Auditor of War suggests as before.

KINDELAN,  
MAL. DE LA TORRE.

HAVANA.

On the said day it was made known to Don Pedro Lopez.

Attest,

TORRE.

*Testimony of Protest.*

In the always faithful city of the Havana, on the thirtieth of January, one thousand eight hundred and twenty-three, before me, the Public Notary, and the witnesses, appeared Don Pedro Lopez, an inhabitant and merchant here, to whom I give credit, and whom I know, and said: That about half past one in the afternoon of this day, the American brig of war of the United States, called the Spark, entered this port, and there was delivered to him, as he says, a letter, by Don Ignacio Lopez, dated at sea, the 26th of the current month, subscribed by Don Pablo Daunes, the tenor of which is literally as follows:

*At Sea, 26th January, 1823.*

“ Sor. Don Pedro Lopez.

SIR: The Brig of Don Pedro Martinez having this morning made the signal for getting under weigh, I weighed and went out, the American brig of war named the Spark having gone before, and being about pistol shot from her, he ordered me to launch the boat, which I obeyed, and he told me that I was accused of having robbed the American schooner which had this day sailed from this port of the Havana, called, or named, the Elenora, Captain Howell; and said Howell having gone on board to recognize the men, said that it is the boatswain, Nicholas Gongoll, very old in this vessel, as you

and the house of Sogas know; said Howell also said that the schooner *Ninfa Catalana* was the same that had robbed him; and thus I have endeavored to show you the whole truth, as all the merchants of the Havana, it appears to me, know me and the vessel, that we have never been guilty of any crime, either the vessel, myself, or the crew. They command us to follow, it appears, to Baltimore or Charleston, and I have charged the commander with the losses which may take place. I desire you to pass, and send it to your friend, Pablo Daunes.—Do not fail to write me, and to speak with some one who has knowledge of these matters, or others whom I mention, how we may conduct ourselves, and write to Iglesias.”

It is conformable to said letter which I, the notary, corrected and compared, and have returned sealed to the same Don Pedro Lopez, to whom I refer, who pursues, saying, that, having been informed by the same D. Ingacio Lopez, D. Juan Pastor, D. Juan Alvarez, D. Salvador Fernandez, and others, who may be named in time and form, passengers and shippers, interested in the Spanish schooner *Ninfa Catalana*, that, in fact, being on board said vessel, within cannon shot of the Moro Castle of this port, the aforesaid schooner *Ninfa Catalana* was detained, seized, and manned, by the crew of the American brig of war *Spark*, by the order and will of her commander, manning her with eighteen of the crew of the said brig, with two Marine guards, leaving on board of the same *Ninfa* her armament, putting manacles on the boatswain, and irons on his feet, and leaving the captain, D. Pablo Daunes, and three passengers free, in which state it was determined, as the said witnesses understood, and will agree with their signatures as proof, and likewise mentioned in the letter which has just been produced, that they directed the said schooner to the port of Charleston, or of Baltimore, observing that the beforementioned American brig of war sailed from this port on the same twenty-sixth day of the current month, half an hour before the schooner *Ninfa Catalana*; so that the attack was premeditated in violation of the laws of justice and of nations, of the local authorities of the territory, of a friendly flag, and of the reciprocal respect which civilized nations ensure to commerce and the nation. Wherefore, there being no example of a similar crime, leaving safe all the resources which may be favorable to him, and the laws allow him, he protests, once, twice, thrice, and four times, if it be necessary, and the laws authorize him, against the commander, crew and vessel of the said American brig of war *Spark*, of the United States of America, for the detention, seizure, losses, damages, injuries, demurrage, consequent damage, and profit ceasing, expenses and charges which such a proceeding may occasion, that they may be refunded to those who may be lawfully interested in the beforementioned Spanish schooner *Ninfa Catalana*, hull, keel, and other appurtenances, as well to those who may be her shippers, as whatever else may be necessary of her hull. In testimony, whereof, thus he said, agreed; and signed, at half past five in the afternoon of this day, with the other individuals referred to as witnesses, D. Jose Segundo, D. Calletano

Covisor, and D. Francisco Valerio, inhabitants and present. Pedro Lopez, Salvador Hernandez, at the request of D. Ignacio Lopez, and D. Juan Alvarez, who, in the act, declared that they knew not how to sign, Francisco Valerio, Juan Pastor, Jose de Salinas. Agreeable to the original, which remains in the archive of this Notarial office, under my charge, to which I refer; and, upon the petition of Don Pedro Lopez, I give these presents in duplicate.

JOSE SALINAS.

HAVANA, *January 13th*, 1823.

PETITION,

To the acting Captain General: D. Pedro Lopez, an inhabitant and merchant of this city. and consignee of the Spanish schooner *Ninfa Catalana*, Captain D. Pablo Daunes, with due respects explains to you, that, by the former decree, which provides, that competent information be received before the Auditor of War, which may establish the truth of the facts, to which he confines himself in his former process, and to fulfil it, it is proper for him that you will be pleased to order that those to whom he refers, in his said memorial, should say, under the solemnity of an oath, and declare, respecting the following particulars, 1st. If they know Don Bartolome Iglesias, owner and captain of the said Schooner, D. Pablo Daunes, second captain, and accidentally first, he (Iglesias) having been left sick in Campeachy, and Nicolas Gongall, boatswain, in the present voyage, formerly a sailor in her, incapable, from their known honor, of having committed hostility or injury upon any vessel of a friendly or allied power, it being impossible from the said circumstances, that they could have tolerated any other individual belonging to the said schooner, to have perpetrated the crime of which the commander of the American brig of war *Spark* accuses them. That they say as they know, and is evident to them, that from the 26th of November of the year 1818, when the aforesaid Iglesias purchased the said schooner *Ninfa Catalana* of D. Martin de Zavala, to the present time, he has made no other voyage than to Campeachy, Sisal, or other port of the Gulph of Mexico, without ever having seen or heard of this vessel, having been destined to other places than those mentioned. In the same manner, that Don Ignacio Lopez, or any other of the witnesses to whom it may be known, say how he knows that the accusation which the American schooner made of the *Ninfa Catalana*, to the commander of the brig already cited, arises from the resentment of a sailor of the former against one of the latter, who shall certainly be the boatswain of her, for not having permitted him to make fast a rope to the *Ninfa*, when he came alongside of the former, at the wharf, for which reason the American threatened that he would pay him, and this was the cause of the false accusation already related: wherefore I intreat you to be pleased to accede to this request, agreeably to justice. Havana, the 3d of February, 1823.

PEDRO LOPEZ.

## DECREE.

Havana, 3d February, 1823. As he requests—two dashes.  
**MANUEL DE LA TORRE.**

## NOTIFICATION.

In the Havana, on the said day, I notify it to Don Pedro Lopez.  
 Attest, **TORRE.**

## DECLARATION.

In the ever faithful city of the Havana, on the 3d of Feb. 1823, before the Acting Auditor of War, appeared Don Ignacio Lopez, a native of the Kingdom of Galicia, an inhabitant of Campeachy, and at present a resident here, a married man, and by profession a merchant, who made oath, in due form of law, under which he offered to speak the truth; and being examined by the particulars of the foregoing interrogatory and memorial of the former page, said, after being informed of the said memorial, and of the protest which accompanies it, that the passage is certain and true, which the last relates, in which appears copied the letter which the captain of the schooner *Ninfa Catalana* directed to Don Pedro Lopez, his consignee, which fact took place at the distance of a cannon shot from the Moro, loading the boatswain of the schooner *Ninfa*, and the sailors, with chains; and answers, being interrogated, on the first particular, he said: That he knows the individuals to whom the interrogatory refers, whom he takes, and has taken, for honest men, and of regular conduct, not having ever heard it said that the said individuals could have committed the crime of which they have been accused by the captain of the schooner which was said to be robbed, conceiving, at the same time, that such an imputation is a falsehood: and answers to the second, that it is certain that, from the date which is cited, the voyages which the said schooner has made, have been to the ports which the interrogatory mentions, in the Gulf of Mexico, without having heard it said that she had been destined to other points than those related: to the third, and last, that it is certain that the accusation which the captain of the American schooner made, has no other origin than that which is related as having passed, in the terms written; and answers that, what he has declared, is the truth, in virtue of the oath which he has taken; that he is forty years of age. It was read to him, and he declared it to be correct; that he is not comprehended in the general principles of the law, does not sign from not knowing how; which I attest. Before me,

**MANUEL DE LA TORRE.**

## DECLARATION.

In the ever faithful city of the Havana, the same day, month, and year, before the same S<sup>or</sup> Auditor, appeared Dn. Salvador Fernandez,

a native of Galicia, a married man, and by profession a merchant, to whom an oath was administered, which he made with due form of law, under which he promised to speak the truth, and being examined as to the foregoing, said, that the event is certain and true, described in the memorial of the first page, and the protest, which is added in testimony, as it happened accordingly, and, as this document relates it, which is evident to him, in consequence of his being on board the Schooner Ninfa Catalana, on the day mentioned, as he had taken his passage in her for Campeachy, to which port she was bound, and proceeded about a cannon shot's distance from the Moro: and answers, being interrogated by the first particular of the preceding interrogatory, said, that he has been in the habit of sailing upwards of two years in the said Schooner, for the purchase and sale of his merchandise, for which reason he knows, and is acquainted with the persons whom the interrogatory indicates, whom he has considered, and still considers, as men of honorable proceedings, who are incapable of committing hostilities, or allowing them to be committed, or causing damage to any vessel belonging to nations, our allies: and, answers to the second, that, by what he has related in his former answer, he knows that the Schooner Ninfa Catalana has not directed her voyages to other ports than those mentioned. To the third and last, that it is certain the declarant was present; and, also, one of the sailors of the Schooner Ninfa, who had been brought by the orders of the American Brig Spark; and answers that what he has declared is the truth, in virtue of his oath; that he is twenty-seven years of age: it was read to him, and he declared it to be correct, and signed it, declaring that he is not comprehended in the general principles of the law. The Auditor did it, which I attest.

SALVADOR FERNANDDZ.

Before me,

MANUEL DE LA TORRE.

#### DECLARATION.

In continuance of the act appeared before his Lordship D. Jose Ferrer, a native of Catalonia, a married man, domiciliated in Campeachy, and by profession a merchant, to whom was administered the oath, in the form prescribed by law, under which he promised to speak the truth, and, being examined by the memorial of the first page, which was read to him, as, also, the protest which is added in testimony, said, that the fact is certain and true, which the memorial and protest mention, as having happened on the date and in the terms which the letter, inserted in the protest, indicates; the Schooner Ninfa Catalana, being distant about a cannon shot from the Moro, and answers, being interrogated by the first particular of the preceding interrogatory, said, that, from having made voyages in the Schooner Ninfa Catalana, as a passenger, he knows the persons mentioned, whom he has considered, and considers, as men of all

honor, incapable, from their good qualities, of committing hostilities or causing damage to any vessel belonging to nations, our allies, or of permitting a sailor, belonging to her, to commit it: and answers to the second, for the reason already given, he is equally certain that the said Schooner has made no other voyages than to the points which the interrogatory indicates; and answers to the third and last, that he is ignorant of it, although he has heard it said in the same vessel, for which reason he does not assert it; and answers, that what he has declared, is the truth, in virtue of his oath; that he is of the age of thirty-five years; that it was read to him, and he declared it to be correct; he did not sign from not knowing how; the Auditor did it, which I attest.—Before me,

MANUEL DE LA TORRE.

DECLARATION.

In the ever faithful city of the Havana, on the fourth of February, one thousand eight hundred and twenty-three, before acting Auditor of War, appeared Dn. Juan Pastor, a native of Tarragona, in the Principality of Catalonia, and an inhabitant of Merida, in Yucatan, a widower, and professionally a merchant, whose oath was taken by God and the Holy Cross, under which he promised to speak the truth, and being examined by the preceding representations, and the protest, which is added in testimony, being read to him, he said, that the said protest attests the truth of the facts, for which purpose he subscribed it, the said first memorial being also agreeable to it. Being examined by the contents of the second, he said, that he knows the persons who are mentioned, and has sailed with them, and by the same he can say, with all safety, that they are honorable men, of irreproachable conduct, and thus he considers them incapable of having committed any hostility on vessels belonging to a friendly nation, esteeming whatever may be said to the contrary as a calumny, he can do no less than represent, that, having requested the Captain of the American brig of war to mark the point at which the Schooner Ninfa Catalana had caused the damage, as she had been in the trade from Campeachy to the Havanna, about four years, the declarant being the consignee in Sisal, and he answered in his language, and by an interpreter, that he did not know. To the second, that all that is related in the interrogatory is certain, and answers, that what he has declared is the truth, in virtue of his oath; that he is advanced in age; it was read to him and he declared it to be correct, and signed it with his Lordship, which I attest—one dash.

JUAN PASTOR.

Before me,

MANUEL DE LA TORRE.

## DECLARATION.

In continuation, appeared before his Lordship Don Juan Alvarez de Castro, a native of Galicia, and inhabitant of this city, a bachelor, and his business that of a merchant, who made oath, in due form of law, under which he promised to speak the truth; and, being examined by the memorial of the first page, which was read to him, as well as the protest which accompanies it in testimony, said: That what both documents express, is certain and true, because as a passenger of the schooner Ninfa Catalana, he was present at the whole, and assisted in forming the protest; and being examined by the other representations, said: to the first, that he knows all the persons who are named, whom he considers as men of honorable conduct, and does not believe capable of having committed the crime which the commander of the American brig of war Spark, belonging to an allied nation, attributes to them. To the second, that, as far as the interrogatory contains, is well known to him, and answers, that what he has declared, is the truth by the oath which he has taken; that he is forty six years of age. It was read to him, and he declared it to be correct. He did not sign; as he said he did not know how, which was done for him, which I attest. Before me,

MANUEL DE LA TORRE.

## DECLARATION.

In continuation, before his Lordship appeared Don Jose Anet, a native of Catalonia, and inhabitant of this city, a married man, and merchant, to whom was administered the oath in due form of law, under which he promised to speak the truth; and, being examined by the memorial of the first page, and the protest which accompanies it being read to him, said: That the contents of the memorial and protest which were read to him, agree with the declarations which D. Pedro Lopez has made to him; and, being examined by the particulars of the last representation produced by this man, said: to the first, that he knows the persons who are mentioned as belonging to the schooner Ninfa Catalana, always esteeming them honest men, as having heard nothing to the contrary, and therefore does not presume that they can have committed any hostility, and especially upon vessels belonging to an allied nation. To the second, that, what the interrogatory expresses is known to him, except the date when the schooner was purchased, and answers, that what he has declared, is the truth by his oath: that he is thirty one years of age. It was read to him, and he declared it to be correct, and signed with his Lordship, which I attest.

JOSE ANET.

Before me, MANUEL DE LA TORRE.



## DECREE.

*Havana, February 4, 1823.*

The informatory evidence having been furnished, which was provided in the decree of the first current, let these proceedings be delivered to D. Pedro Lopez, that he may advance that part of it which he thinks proper.

KINDELAN.

MANUEL DE LA TORRE.

## NOTIFICATION.

In the Havana, on the said day, I notified it to Don Pedro Lopez.  
Attest, TORRE.

## PETITION.

*To the Acting Captain General:—Don Pedro Lopez,*

An inhabitant and merchant here, consignee of the Spanish schooner *Ninfa Catalana*, in the proceedings which he has instituted in this Captaincy General, with the usual respect, says: that, for the better clearing up the information which he has brought forward, and to give it all the force necessary for that purpose, has requested his Excellency the Commander General of the Marine, that the Captain of the Port, having examined the books under his charge, will certify, as is true, that the said vessel had directed her voyages only to the ports of the Gulf of Mexico, and never to that of Cadiz; and his Excellency was pleased to accede to the request, the Captain of the Port certifying in consequence; which documents he accompanies with the ceremonial of style, in order that they may produce the proper effects: Wherefore, he intreats you to be pleased, they being presented, to order that they be added to the process, that it may have the proper effects, which is justice. Havana, February the fifth, one thousand eight hundred and twenty three.

PEDRO LOPEZ.

## DECREE.

*Havana, February 5, 1823.*

Let the presented papers which accompany, be added to the proceedings of the business, that it may have the effect which may happen.

KINDELAN.

MANUEL DE LA TORRE.

## NOTIFICATION.

In the Havana, the said day, I notified it to Don Pedro Lopez.

Attest, TORRE.

## PETITION.

*His Excellency the Commander General of Marine.*

*Havana, February 1, 1823.*

Don Pedro Lopez, an inhabitant and merchant of this city, as consignee of the private Spanish schooner called the *Ninfa Catalana*, respectfully says to your Excellency, that it is agreeable to his right, that the Captain of the Port, upon examination of the rolls which he has despatched to said schooner, from the twenty sixth of November, one thousand eight hundred and eighteen, when his consigner, Don Bartolome Iglesias purchased her, according to the testimony of writing which duly accompanies. Certify in continuation, if, from any of them it appear, that she had, at any time, been despatched to the port of Cadiz; and, as is the truth, that, from the said date to the present time, she has performed no other voyages than to the Gulf of Mexico, and almost constantly to Campeachy; as also, that the said Iglesias has constantly commanded her; whose conduct has been irreprehensible in his command of captain and master of her; therefore, he intreats your Excellency to be pleased to order, that the certificate which he solicits by the principal, be proved to him by the said office, and the act be delivered to him, to serve him as a proof in what he intends doing respecting the false accusation which the captain of an American merchant vessel made against said schooner to the commander of the brig of war which took her, and is now in the port; which is justice, and which he expects from your Excellency's equity.

PEDRO LOPEZ.

## DECREE ON THE MARGIN.

*Havana, February 3, 1823.*

To the Captain of the Port for what is requested.

GASTON.

## TESTIMONY.

Be it known, that I, Don Martin Zavala, an inhabitant and merchant of this place, by these presents, agree to sell, really, in favor of Don Bartolomé Iglesias, an inhabitant of the city of Campeachy, residing in this, of the Havana, a Spanish merchant schooner, my property, named *Sircasiana*, of the burthen of one hundred and sixteen and a half tons; the same which I had and purchased of a citizen of the United States of America, Patrick Ayres, for himself, and as at-

torney of William Wood, merchant, of Philadelphia, as appears from the writing lodged in this very archive, and before the present Notary, on the eleventh of September, of the past year, one thousand eight hundred and sixteen, at which date she was naturalized and matriculated in this province, with the formalities of the ordinance, being placed in the roll of the register, at folio one thousand four hundred and eighty two of the lists of smaller vessels; and she was sold, moored, and anchored in this port, with all her masts, sails, anchors, rigging, rudder, bowsprit, yards, binnacle, launch or boat, and other necessaries, as appear from her inventory, with which the purchaser was furnished, free from all demands, claims, and obstacles, from which, in sufficient form I insure and make her good; for the price and clear sum of one thousand five hundred and fifty dollars, which I have received of the aforesaid in current money in hand, and admit as paid to my satisfaction. I renounce the proof, laws of delivery, specie, fraud, and other things of the case, of which I acknowledge the formal receipt, by which I declare, that the just price and value of the said schooner *Circaciana*, at the time of her last bidding, at the public vendue of Don Mariano Canelas, on the twenty fourth current, is that of those who know, one thousand five hundred and fifty dollars, for which the highest bid was made, but if somewhat more is or may be the value of the excess, whatever it may be, I make a gift and donation to the purchaser, mere, pure, perfect, and irrevocable, the assignable right and title, (*titula intervivos.*) with all the clauses, entails, requisites, and stabilities, necessary for its validity. In virtue of which, I abandon and desist from the right, property, possession, use, dominion, and other actions real and personal, which I held or had to the said schooner, and all her advantages; I give up and transfer the whole to the purchaser and his lawful representative, that, as his own property, he may possess, sell, or alienate her at his pleasure, in virtue of this writing, which I acknowledge in his favor, in token of the real delivery with which he is seen to have acquired his possession and dominion, without the necessity of other proof, from which I exonerate him, and bind myself to the security and guarantee of this sale, with my property, present and future, in sufficient form of right, and as may be most proper in favour of the purchaser, who, being present, received in his favor this writing; by it he receives the purchase of the said schooner, which, by his order, has since been named the *Ninfa Catalana*, and for her being delivered to his satisfaction, he renounces the proof, laws of delivery, fraud, and other things of the case, of which he acknowledges the formal receipt. In testimony whereof, it is dated in the ever faithful city of the Havana, the 26th of November, 1818. I, the Notary of War Marine, attest, know the person granting, that thus they said, granted, and signed. Witnesses, Don Carlos Alvarez, Don Manuel Lopez, and Don Jose Poso, inhabitants, and present.

MARTIN DE ZABALA,  
BARTOLOME IGLESIAS.

Before me, JOSE MIGUEL ISQUIERDO.

It is agreeable to its original, which remains in the archive under my charge, to which I refer; and from the petition, by order, I extract the present. Havana, 1st February, 1823.

JOSE MIGUEL ISQUIERDO.

CERTIFICATION.

I, Don Jose de Alcala y Guerra, Knight with the cross, and insignia of the royal and military order of St. Hermenegild, Post Captain, advanced from the National Fleet, and acting of this Port, certify, that the Spanish schooner, called Ninfa Catalana, of this register, and the property of Don Bartolomé Iglesias, enrolled in folio 1482, of the list of vessels enrolled in this Capital, never has been cleared for the port of Cadiz; and from the month of November, 1818. that the said Iglesias purchased her, he has always sailed with her, in the situation of captain and pilot, to the ports of Vera Cruz, Sisal, and Campeachy, until the 15th of December, last year, when the said vessel entered this port under the command of a new captain, D. Pablo Daunes, from the said Iglesias having been left sick in the said port of Campeachy; as the whole is plain, by the rolls of said vessel, in this office. And, that it is evident, I give the present, in consequence of the provision, of this date, of his excellency the Commander General of the Marine of this station, returned in the instance presented by D. Pedro Lopez, merchant and inhabitant here. Captaincy of the Port of Havana, 3d February, 1823.

JOSE DE ALCALA.

PETITION.

The acting Captain General: D. Pedro Lopez, merchant here, with the usual respect, says: That, by the decree of the 4th current, the proceedings were ordered to be delivered to him, which he has brought forward respecting the Spanish schooner Ninfa Catalana, in order to have the information finished; that the decree of the first of the same, ordered him to receive them, that convenience may be promoted. In their state, nothing else is wanting, but that you will be pleased to communicate to him your approbation, to give them all necessary force: in virtue whereof, he entreats you to be pleased, in virtue of your decree, to communicate to him the competent approbation, and order the originals to be returned to him, with the testimonies which he shall ask, authorized in public form. Havana, Feb. 6th, 1823.

PEDRO LOPEZ.

DECREE.

Havana, February 6th, 1823. Let it be done—two dashes.

MANUEL DE LA TORRE.

## NOTIFICATION.

At the Havana, on the said day, I make known the preceding decree to D. Pedro Lopez.

Attest,

TORRE.

## DECREE.

Havana, February 7th, 1823. On examination, as far as belongs to right, the information furnished by D. Pedro Lopez, in concordance with what was ordered by the decree of the 1st current, is approved; and, for its greater validity and firmness, his Lordship interposes his authority and judicial decree. Consequently, let the originals be delivered to the promoter, that he may have the use of them which may be suitable; and let him be provided with the testimonials which he shall ask respecting them, corrected and authorized in due form. Let the costs be valued and paid by the said Lopez, with forty-eight reals of assessment.

KINDELAN.

MANUEL DE LA TORRE.

## NOTIFICATION.

At the Havana, on said day, I notified it to Don Pedro Lopez.

Attest.

TORRE.

## OFFICIAL LETTER.

HAVANA, 5th February, 1823.

We send to you a certified copy of the representation which Don Pedro Lopez, a merchant here, has addressed to the Junta of Government of this consulate, showing the incident which happened to the Spanish schooner named Ninfa Catalana, on her leaving this port, with the American brig of war, Spark, that you may be pleased to take into consideration the contents of the memorial, and support the opinion of the Junta, manifested in their resolution at the foot of said copy.

God preserve you many years.

JOSE MARIA PERNALVER.

JOSE JOAQUIN DE AISPURNA,

*The Acting Superior Political Chief*

## DECREE ON THE MARGIN.

HAVANA, February 6th, 1823.

Pass it to the deliberation of the Acting Auditor of War.

KINDELAN.

## DICTAMEN.

Senor Captain General: Don Pedro Lopez, merchant here, consignee in this place, of the Spanish schooner named Ninfa Catalana, which sailed from Campeachy on the twenty-sixth last, has represented to the economical junta of the consulate, the hostile insult which this vessel has suffered from the United States' brig of war Spark, under the guns of the Moro castle, with the rest which is read in his memorial, of which, as well as from the resolution of the junta held on the third current, a copy has been sent to you, signifying to you the gravity of the case, and the transcendancy of such conduct, with the observations which appeared to them proper; and, having taken charge of the whole, have agreed by common consent, and from hence immediately, and without loss of time, this government should proceed as the junta proposes, laying before his majesty a copy of these papers, and of any others which the party interested may propose, that the claims may be better instructed and founded, until, if it is possible, the incident present itself with the conviction which renders the whole charge undeniable, and leaves no responsibility, before it supports the justice of the charges, and any other means: but with your superior information you will determine what you think most proper.

FRAN. DEL CRISTO.

HAVANA, *February 7th*, 182.

## DECREE.

HAVANA, *February 7th*, 1823.

I agree with the preceding dictamen, and let every thing be done as is expressed in it, giving an account of it to his Majesty for his royal determination.

KINDELAN.

## CERTIFIED COPY.

*Mr. President, and Members of the Economical  
and Administrative Junta of the Consulate:*

Don Pedro Lopez, an inhabitant and merchant here, with due respect represents to you, That, on account of his being in this port, consignee of the Spanish schooner named Ninfa Catalana, Captain Don Pablo Daunes, he loaded and despatched her for that of Campeachy, and she set sail on the twenty-sixth of the current month; and when he was calculating on the issue of his navigation, he yesterday received a letter from said captain, informing him of the capture which he had undergone by the United States' brig of war called the Spark. In consequence of which he immediately set about forming the protest which followed, and which, in testimony, duly accompanies. The preliminary step of the protest being finished, the exponent en-

deavored to be informed of the case, and was informed that the said brig Spark, being at anchor in this port, it was announced to her commander by an American captain, that the schooner Niufa, and her boatswain, had robbed him on her voyage from Cadiz. This being so, it appears that the order of things dictated, that the said commander should have addressed himself to the tribunals of this country; but, crime, in every point of view, scandalous! he waited for the day in which the Ninfa Catalana was to set sail; he weighed before the said schooner, waited for her in the mouth of the harbour, and detained her within cannon shot of the castle, manned her with sixteen men and two marine guards, put handcuffs upon her crew, and in addition, put a pair of irons upon the boatswain; he left on board the captain and three passengers, transferred to his own ship six passengers, commanded the vessel to go to Charleston or Baltimore, and having perpetrated his deed, returned to enter into this port yesterday, scandalizing this commerce and its bay, in a manner which, from its results, tends to compromise the public tranquillity, retard it from entering, at the time of one of his boats endeavoring to come alongside the wharf of Caballaria. An occurrence of such magnitude sufficiently calls the attention: the exponent has had recourse to the Superior Political Chief, that, as the superior authority of the territory, he may know of an act which may produce very fatal consequences: to his Excellency the Commander General of Marine, as Military Naval Chief, and an aggression committed on his coasts; and to you, gentlemen, as the protectors of the navigation, the commerce, and the agriculture of this Island. You, Gentlemen, will sufficiently know that the law of nations has been violated; that the laws and authorities of the territory have been trampled upon; that the fortress of the Moro has been despised; that the navigation and the commerce are ruined at once; that the least dissimulation of a similar crime places the Spaniards in the most deplorable state; that thus, public securities are destroyed; and, lastly, nothing proves with more evidence the contempt and want of consideration with which we are treated, than the very brig Spark having returned to enter this port, after having committed such an offence. It is not possible, Mr. President and Members, that such an act can be authorized by the Government of the United States; but so it is, that, in the mean time, it is notorious that their vessels respect the independent flags, whilst they attack and detain ours, as happened with the schooner Gallega the Third, carried to New Orleans; the brig seized near Porto Rico; the permitting to arm in their ports the greater part of the privateers which have ruined and destroy our navigation and commerce, carrying our vessels captured to their own ports, and planting the courts in their own country. The crews of the independents are, comparatively speaking, citizens of the United States; and, in a word, they have already thrown off the mask, and their own ships of war attack, with impunity. Spanish ships upon our coasts, and under our batteries; and what will the Government of the United States say? It is content with disapproving the conduct of the commander who perpe-

trates a crime as the Spark, and reserves the right against him. And is this capable of giving satisfaction, or securing any person? Every individual privateer has a security, which guarantees the bad use which she may make of her patent. And what security do the commanders of American vessels of war produce? They are authorized to make what depredations their commanders desire; but, they resent, and suppose our authorities indifferent to, the crimes which are committed, to their great sorrow, upon these coasts, by foreign subjects, for the most part, of their nation; and they determine, notwithstanding, on a naval armament to cruize upon the seas of this Island, which may, God grant it, be not the artful covering of their intentions. In the time of the meritorious Intendant, D. Alexandro Ramirez, an expedition of the captured vessels was formed, which were in pursuit of this trade, and this very expedition sufficiently proved the disasters which the United States of America have caused to the Spanish navigation. At this very time, privateers of force, which persecute and ruin us, are supplied in their ports; in the Old Channel, at opening that of Bahama, at the Capes of San Antonio, and Corrientes, and even in the mouth of the Strait of Gibraltar, are vessels cruising at the present moment, which, although under the flag of Colombia, are Americans of the United States. And is our Government criticised? After all this exposition, what will be the lot of the boatswain of the schooner Ninfa, fettered, and manacled, and what that of her crew? What losses have not been caused to her proprietors, and shippers? Who will repair these losses? We cannot even appeal to the principal sufferers, or those unable: we cannot expect that the individuals can claim some rights, which, although their own, already interest the whole nation, and, very particularly, the Island of Cuba, which object may be the resort of these scandalous intrigues; and that, if the legitimate authorities do not reclaim, in time, with energy, and take such measures as may produce order, the excesses which may, at such a time, be committed, as reprisals, ought not to be wondered at, which may produce consequences that cannot be remedied when it is thought necessary. On an idea of all that can be explained, I entreat you, gentlemen, that, having as presented the testimony of protest which I produce, you will be pleased to grant what appears most just and agreeable to the enlightened penetration of the Junta; now may it render its desires uniform with the Superior Political Chief; now with his excellency, the Commander General of Marine; now being addressed, in an official letter, to the Government of the United States; and, now, lastly, to the legislative and executive of our Monarchy, that the evil, damages, and vexations, caused to the schooner Ninfa, by the commander and brig Spark, may be reported, and dictating such means as may correct, radically, like abuses, and put entirely to rest the Spaniards from other new ones, as interesting to this country, and the bodies which you, gentlemen, represent.

HAVANA, *January 31st, 1823.*



Besides, by the interest, and urgency of this business, he entreats you to be pleased to convoke the extraordinary Junta to grant what it may think fit, before the brig Spark weigh from this port, which is to be done, in the state of this business; (date as above.) Besides, to have recourse, in case of necessity, on my part, to the supreme Government of the nation, I entreat you to be pleased to order that I may be provided, by the Secretary of the Consulate, with a copy, certified in form, of this proceeding, and all its determinations, or resolutions; (date as above.)

PEDRO LOPEZ.

RESOLUTION OF THE CONSULATE.

In Junta of Government of the Consulate, of the 3d of February, 1823, the President being the second consul, D. Antonio Toso, a representation was seen of Don Pedro Lopez, merchant here, in which he relates the scandalous fact, that the commander of the American brig of war Spark, anchored in this port, had gone to sea, and, in sight of our forts, had captured the schooner Ninfa Catalana, of his consignment, sending her to Charleston, and making prisoners the captain and crew, under the pretext that he was informed, by the captain of an American vessel, that the boatswain of the schooner had robbed him, on the high sea, on another voyage; and, after the commission of this act, and violence, the brig Spark had returned to enter the port, without having brought the complaint before the Spanish authorities, which was in order, if he wished the boatswain to be punished agreeably to the laws. In virtue of this exposition, Lopez solicited that, by the Consulate, as a corporation, charged with the protection of the interests of this commerce, what was proper should be granted to him; and the Junta taking into consideration some facts, which, by their notoriety, have called the attention of this public, and conceiving the necessity that suitable measures be taken by the Anglo-American Government, as well in respect to the fault committed, by the commander of the brig Spark, as to avoid, on the part of their naval officers, the repetition of such acts, which can, in no manner, be authorized by that Government, bound to ours in terms of friendship by a solemn treaty; and this Consulate desires, at the same time, to favor the just solicitude of the individuals injured, has granted it in the case to which allusion is made; that by the Prior, and Consuls, a certified copy of the representation of Lopez be transmitted to the Captain General, acting Superior Political Chief, that the indemnification, to which he is in justice entitled, may be obtained in that Government, and that, in the same manner, he may make the proper complaints to its high representation, in order to avoid similar injuries to our navigation, and insults to our flag. And, finally, that our Supreme Government may take, at convenience, the measures which the protection of the national flag requires; the same Superior Political Chief will be pleased to lay the document before his Majesty, with a recommendation of its importance. Last-

ly, that a certified copy of this resolution be given to Lopez, for the effects which may take place.

ANTONIO TOSO,  
JOSE JOAQUIN DE AISPURNA,  
WINCELAO DE VILLA VRRUTIA.

A true copy,  
WINCELAO DE VILLA VRRUTIA.

It is agreeable to the original acts, formed on the false accusation which the captain of the American schooner, called the Eleonora, made to the commander of the brig of war, also American, the Spark; whence resulted the capture of the Spanish merchant schooner Ninfa Catalana, to which I refer; and, in fulfilment of command, I write these presents.

(Signed with a flourish.)

MANL. DE LA TORRE.

HAVANA, March 6th, 1823.

We certify, and attest, that Don Manuel de la Torre, who, by authority, attests the preceding, is a notary, national, and, ad interim, of war, as he is styled, faithful, loyal, and confidential; he uses, and practises, his profession with general approbation, and, to his equals, he has always given, and gives, entire faith and credit, in both offices.

HAVANA, date as above.

(Signed with three separate flourishes.)

PHILIP ALVAREZ,  
JPH. FRANO. RODRIGUEZ,  
FRANCO. AYALA.

No. 31.

Mr. Adams to Mr. Salmon.

DEPARTMENT OF STATE,

Washington, 29th April, 1823.

SIR: I have had the honor of receiving your letter of the 15th inst. enclosing a copy of one bearing date the 16th of October, 1822, from Don Joaquin de Anduaga to Mr. Meade.

By the 5th specific renunciation, in the ninth article of the treaty between the United States and Spain, signed on the 22d of February, 1819, but ratified by His Catholic Majesty only on the 24th of October, 1820, it was provided, that the renunciation, on the part of the United States, of all claims for damages or injuries sustained by themselves, or their citizens, from Spain, stipulated by the preceding part of the same article, should extend—

“To all claims of citizens of the United States upon the Spanish Government, statements of which, soliciting the interposition of the Government of the United States, have been presented to the De-

partment of State, or to the Minister of the United States in Spain, since the date of the convention of 1802, and until the *signature* of this treaty."

You will observe, that the time of the *signature*, and not that of the ratification by either party, nor that of the exchange of ratifications, is expressly agreed upon, as the *time*, until which the claim and the *statements* of them to the Department of State, or to the Minister of the United States in Spain, had been received; which claims were, on the part of the United States, renounced.

The reason for fixing upon this particular *time* for the period at which the obligation of the United States, to assume the payment of these claims, should *terminate*, is *obvious*. It was neither proper, nor could it be the intention of the parties, that they should renounce claims, or admit *statements* of them, not known to the party assuming the obligation, at the time of contracting it. Whatever claims might arise, or whatever *statements* of them might be made after the *signature* of the treaty, were not, therefore, and could not, with propriety, be provided for by it.

By the eleventh article of the same treaty, it was stipulated, that, "The United States, exonerating Spain from all demands *in future*, on account of the claims of their citizens, to which the renunciations herein contained extend, and considering them entirely cancelled, undertake to make satisfaction for the same, to an amount not exceeding five millions of dollars. That,

"To *ascertain* the full amount and validity of these claims, a commission, to consist of three commissioners, citizens of the United States, shall be appointed by the President, by and with the advice and consent of the Senate, which Commission shall meet at the city of Washington, and within the space of three years from the time of their first meeting, shall *receive*, *examine*, and *decide* upon, the *amount* and *validity* of all claims included within the descriptions above mentioned." That "The said commissioners shall take an *oath*, or affirmation, to be entered on the record of their proceedings, for the *faithful* and *diligent discharge of their duties*;" and that "the said commissioners shall be authorized to hear and examine, on oath, every question relative to the said claims, and to receive all suitable, authentic testimony concerning the same. And the Spanish Government shall furnish all such *documents* and elucidations, as may be in their possession, for the *adjustment* of the said claims, according to the principles of justice, the laws of nations, and the stipulations of the treaty between the two parties, of 27th October, 1795; the said documents to be specified, when demanded, at the instance of the said commissioners."

It has been necessary to set forth, in the terms of the treaty, itself, the engagements respectively contracted by the parties to it in these articles, in order to show, with clearness, their bearing upon the question now brought into discussion by your letter, and that of Mr. Anduaga, which it enclosed.

The claims, payment of which, to a fixed and limited amount, was

assumed by the United States, were claims not only existing, but *statements* of which had been exhibited at the Department of State, or to the Minister of the United States in Spain, *before the signature* of the Treaty.

To *ascertain* the full amount and *validity* of those claims, Commissioners were to be appointed, to act under oath, and charged with the duty, to receive, examine, and *decide upon the amount and validity* of all the claims.

And the Spanish Government solemnly bound itself to furnish all such *documents* and *elucidations*, as might be in their possession, for the *adjustment* of the said claims.

If any thing in human intention can be made clear by human language, it is, that the claims, provided for by the above stipulation, were in the condition as they had been exhibited, at the time of the *signature* of the treaty; that the authority, and the trust of examining, ascertaining, and *deciding* their amount and *validity*, was *solely* and *exclusively* committed to the Commissioners, and that the Spanish Government was, and is, bound to furnish them, at their demand, all documents and *elucidations*, in possession of the said Government, for the *adjustment* of the claims.

No transaction between any of the claimants and the Spanish government, subsequent to the signature of the treaty, could be evidence to the commissioners of the condition of the claim at the time of that signature. No appeal from the decision of the commissioners, either to the Government of the United States, or of Spain, was reserved. By the transfer to the United States of the obligation of making payment conformably to the treaty, of those claims, Spain deliberately, and with full knowledge, transferred also the right of examining and deciding their amount and validity. It is to little purpose, therefore, that Mr. Anduaga's letter descants so largely upon the variety and respectability of the Spanish commissions and tribunals; which, many months *after the signature* of the treaty, undertook to liquidate, that is, to decide upon the amount and validity of Mr. Meade's claim upon the Spanish government—neither the number nor the character of those courts is at all questioned; but, from the day of the *signature* of the treaty, they had no jurisdiction to try or decide upon any of the claims, the payment of which was assumed by the United States. Whatever jurisdiction they did exercise, however obligatory it might be upon his Catholic Majesty's government, could have no effect whatever to charge the United States, or, so far as they were concerned, to change the condition of the claims, as it had been exhibited to the Government of the United States, or to their minister at Madrid, before the signature of the treaty. It had been exhibited, as an unsettled and unliquidated claim; if comprised at all within the provisions of the treaty, it was as an unsettled and unliquidated claim, upon which, as upon all the rest, the commission instituted under the treaty, was, by the express engagement of both parties, exclusively to decide.

It is alleged by Mr. Anduaga, and repeated in substance by you,

that the decision by the Spanish tribunals upon the amount and *validity* of Mr. Meade's claim, made many months after the signature of the treaty, many months even after His Catholic Majesty was bound to have ratified the same, and after its ratifications ought to have been exchanged, was given at the earnest instance of the minister of the United States in Spain, and that he, as well as the Government of the United States, expressed their satisfaction at the event. The answer to this argument is, however, furnished by Mr. Anduaga and by you. Mr. Anduaga says, "when all this was done, there was no probability that the United States would be obliged to pay this debt;" that is to say, there was no probability that His Catholic Majesty would perform the express and solemn promise that he had made, to ratify the treaty. Undoubtedly, when there was no probability that the United States would be charged with the payment of the debt, their government and their minister did earnestly press the Spanish Government to do justice at least to Mr. Meade. What that justice was, what was the amount and validity of his claim upon the Spanish government, the United States neither had, nor claimed the right to decide. So far as it was an obligation to be paid by Spain, and by which no other interests of the United States, or of their citizens, could be affected, the right to decide upon it was exclusively of the resort of Spanish tribunals, and the American Government and minister naturally expressed their satisfaction, at the adjustment, by the Spanish government, of a claim of *one* of their citizens, in whose favor they had taken a deep and generous interest, it being always understood by them, that this interest did not conflict with their duties to the people of the United States, and to all their other fellow citizens, also claimants upon Spain, and in whose favor their government was bound to take an interest as earnest and generous as in that of Mr. Meade.

While there was no probability that the treaty would be ratified by Spain, the adjustment by Spanish tribunals, binding only upon Spain, could in no wise affect any other right or interest of the people of the United States, or of other American citizens, claimants upon Spain. That adjustment could in no wise charge the United States. It was an obligation of Spain, contracted *after* the signature of the treaty, and was thereby excluded, by the express terms of the treaty itself, from the number of those which the United States had, by the treaty, engaged to assume upon themselves. The cognizance taken at the time by the Spanish tribunals, of this claim, and the acknowledgment of the amount and validity of this one alone, as you affirm, among many hundreds of other claims of American citizens, many of much longer standing, and all equally entitled to adjustment and liquidation, are indeed powerful arguments to prove that Mr. Meade's claim was not one of those for which Spain had intended to provide by the treaty. And this argument is strongly fortified by another, which Mr. Meade himself, and his learned counsel in this country, have urged with great force, namely: that the claims of Mr. Meade, upon Spain, were of a nature, which, by the

laws of nations and of justice, Spain could not discharge, and the United States could not renounce, by any treaty or compact between themselves. The conclusion from these arguments, if correct, undoubtedly is, that Mr. Meade's claims upon Spain, were not intended to be, and even could not be, provided for by the treaty, and were therefore not included in it. If, then, the Commissioners under the treaty did, in the first instance, entertain very serious doubts whether the claim of Mr. Meade was among those provided for, or intended to be provided for by the treaty, it was to these proceedings of the Spanish government, after the signature of the treaty, and to the argument of Mr. Meade and his counsel, against the *right* of the contracting parties to the treaty, to dispose of Mr. Meade's claim, that these doubts must be ascribed. It was assuredly never the intention of the Government of the United States, in that treaty, either to renounce any claim which they had not the right to assume, nor to assume any claim which they had not the right to renounce; as far as it doubtless from the intention of Spain to discharge any just claim of Mr. Meade's upon her, by the attempt to transfer it to a third party, without his consent. Nothing can be more clear than that Spain remains at this hour bound to satisfy, to the last real, every claim acknowledged by herself to be just, and which she had not the right to transfer to a third party, without the consent of the claimant.

The treaty, by its express terms, made provision only for unsettled and *unliquidated* claims. The United States assumed them, as they existed and had been exhibited at the signature of that instrument, the 22d of February, 1819. In assuming the duty of Spain to discharge those claims, the United States acquired the right, and it was, in express words, secured to them by the treaty, of ascertaining and deciding, exclusively by a commission of their own citizens, the *amount* and *validity* of each claim assumed. At the same moment when the obligation to discharge the claim attached to the United States, this exclusive right of the commission to examine and decide its amount and validity, attached with it. From that moment the Spanish tribunals had no more right to examine or pass in any manner upon the claims, than the tribunals of the United States had to examine and pass upon them before the signature of the treaty. This provision imported no distrust in the justice or integrity of the Spanish tribunals. It followed, as an indispensable consequence, from the engagement contracted by the United States to pay the claims.

By the treaty itself, and by the full power of Don Luis de Onis, its negotiator on the part of Spain, his Catholic Majesty was bound to ratify the treaty so that the ratifications should be exchanged within six months from the day of its signature. Had this engagement been performed, Mr. Meade's claims would have remained in the same state in which they had been on the day of the signature of the treaty, unsettled and unliquidated. Mr. Meade's claims were not provided for by name, nor had any mention of them been made in the course of the negotiation. The Spanish Government was, at that time, so far

from admitting that Mr. Meade had any just claim upon them, that they had but very recently, at the earnest and peremptory interposition of the Government of the United States, released him from imprisonment, as a defaulter to them.

The treaty remaining unratified by his Catholic Majesty, and, as Mr. Anduaga affirms, there being no probability that it would be ratified, long after the period had expired, when he had promised, on his royal word, that it should be ratified, the Minister of the United States at Madrid, at the earnest and repeated solicitations of Mr. Meade, certainly did urge the Spanish Government to adjust, liquidate, and satisfy his claims. From the nature of these claims, his learned counsel in this country have since drawn it in question, whether the Government of the United States had any right to interpose with that of Spain in relation to them at all, and upon this question depends the other, before noticed, whether Spain could, by treaty, transfer to the United States her own obligation to pay those claims. They were claims which Mr. Meade had acquired, not in his neutral character as a citizen of the United States, but as a voluntary contractor with the Spanish Government, while residing in their territory, and living under their allegiance. They were, therefore, unquestionably, much less entitled to the interference of the American Government, than the great mass of the claims provided for by the treaty; claims for wrongs suffered by citizens of the United States, in their genuine character as such; for wrongs, in the origin of which there was no voluntary agency of their own, no forfeiture of their neutral rights, no resort but to the perfect obligation of their own Government to support them. Had the Spanish Government, at the time when the Minister of the United States interposed in behalf of this claim, taken the ground of argument since assumed by Mr. Meade and his counsel; had they said, this is a claim in which the Government of the United States have no right to interfere, a question upon contracts between Mr. Meade and us, while living in our territories, and amenable to our laws; undoubtedly, by the principles of the rights and duties of nations, universally recognized, Mr. Meade and the American Government must fain have put up with this answer as conclusive, and Mr. Meade's claim could never have been pretended to be included in the provisions of the treaty.

But no such ground was then taken either by the Spanish Government, or by Mr. Meade. So little was his reliance upon the justice of the Government with which he had contracted, and under whose protection he dwelt, without the effectual interposition in his favor, of the Government under which he had been born, that his intreaties for the interposition of the American Minister and Government, in favor of his claims, were urgent and unceasing. To this interposition the Spanish Government did not object. Mr. Meade *desired* that provision for his claim should be made in the treaty which was then negotiating, and made known this desire to the Government of the United States. He was informed, in answer, that, if the treaty should be concluded, his claims would be considered and attended to

as far as might be practicable, in *common with the others*: and, to this arrangement he never suggested an objection, till after the ratification of the treaty by Spain, nor until just at the moment before its second ratification by the United States. He, then, to be sure, and then, for the first time, addressed the President and Senate of the United States, calling upon them to refuse the ratification of a treaty in which the only possible indemnity of many hundreds of their fellow citizens for their losses, to the amount of five millions of dollars was secured; or to make the ratification conditional, that another article should be added, by which *his* claim, not as existing at the time of the signature of the treaty, but as many months after that compact ought to have been ratified by Spain, liquidated by Spanish officers, before the Spanish ratification of the treaty, should be paid to the full amount as acknowledged by them, and without being subject, like all the other claims, to the honest investigation and scrutiny of the American Commissioners: and the principal argument urged by Mr. Meade's counsel in support of this demand, that the American Government should sacrifice the acquisition of the Floridas, and five millions of dollars of indemnities justly due to their citizens, whose right to the effectual support of their country was perfect, was, that his claim was of a nature that the American Government had no right to interpose with Spain in its favor at all.

If the claims of Mr. Meade, upon Spain, were included among those provided for by the treaty, it was in common with all the others, to be treated like all the others, and to abide the same issue with the others. Such was the clear unequivocal intention of both parties to the treaty; nor could the American Government, in equal justice to all the claimants, have negotiated upon any other principle. The amount of claims exhibited to them, to be provided for by the treaty, as stated by the claimants themselves, was nearly ten times the five millions which they agreed that the people of the United States should pay, from the proceeds of the Florida lands, to discharge them. But it was well understood that many of the claims were not even valid against Spain; that most of them were swollen, by the statements, far beyond what, upon a fair examination, would be found to be due; that equitable deductions, from equitable claims, would reduce almost all of them within very contracted dimensions; and that, for the whole mass of them, the *only* hope of the claimants was in the munificence of the treaty. They were all, by the terms of the treaty, unsettled claims. Their just amount could then be only judged of by an *estimate*, in many respects conjectural, but it was believed, upon considerations, duly weighed, that, when stripped of all their appendages to naked justice, five millions of dollars would be sufficient to cover them all. As they were to be paid by the people of the United States, it was the duty of the Government to allow no larger sum than would be sufficient, in rigorous justice, to discharge them. It might happen that even the just and indisputable claims would amount to something more. In that case, the claimants must consider it as a composition of their claims, the best that their Government has been able to obtain for them; and it was not doubted that



they who had been from one to twenty years waiting, with very little probability of ever obtaining, *any thing* for their claims, would be more than contented to receive, so nearly, all that they could have asked, and to abandon to their country the small remainder for the salvage of the rest. But to render this principle compatible with justice to all parties, it was indispensable that all the claims should be placed upon the same footing; that all should be subjected to the close, vigilant, and rigorous scrutiny and investigation of an upright and intelligent commission of American citizens; that all should be alike submitted to their examination and decision, and that no transaction between the Spanish Government and any one of the claimants, subsequent to the *signature*, but before the ratification of the treaty, should alter the character of his claim, and give him an advantage, at the expense of the people of the United States, and of *all* the other claimants under the treaty. If the American Government could have admitted any discrimination between the claims, and that any one should have been privileged above the rest, Mr. Meade's claim, if the present argument of his learned counsel is sound, would have been the very lowest on the list, and the least entitled to favor. Since most, if not all the rest, were claims, which the American Government had been, from the beginning, bound, by the duty of protection to the rights of their own citizens, to support and maintain, even, if necessary, to the issuing of reprisals, while that of Mr. Meade, incurred voluntarily by himself, with the Spanish Government, while domiciliated in Spain, and by transactions of no neutral character, was of a nature to leave it doubtful whether the American Government had ever possessed the right of interposing in its behalf at all.

The interest taken, therefore, by the American Minister at Madrid, in Mr. Meade's favor, by urging on the Spanish Government the settlement of his claims; the satisfaction that he expressed after the liquidation had been obtained; the letter of congratulation from the American Secretary of State to Mr. Meade, upon the event, when informed of it by him, have not the slightest bearing upon this argument. The answer to all this is furnished by Mr. Anduaga, when he says, "There was, then, *no probability* that the Treaty would be ratified by Spain." The American Minister and Secretary of State expected that what the Spanish Tribunals had liquidated and settled, the Spanish Government would pay. They knew perfectly well that no interests of the People of the United States, or of the other claimants upon Spain, could be injuriously affected by this Spanish liquidation of Mr. Meade's claims. If the Treaty should be ratified, and Mr. Meade should be receivable as a claimant under it, they knew that his claims could be admitted only as provided for by the Treaty, and that no intermediate transaction between him and the Spanish Government could be evidence of his claims, as they had existed and been exhibited at the *signature* of the Treaty. That no decision of a Spanish tribunal could settle that which the Treaty, in express terms, reserved to the exclusive decision of the American

Commission. If the Treaty should *not* be ratified, they rejoiced that their exertions in *his* favor had been so far successful; that he had a nearer prospect of obtaining satisfaction from the Spanish Government itself. Their pleasure was that of a benevolent and friendly feeling towards Mr. Meade. But the American Government had duties of a more imperious nature to others—to the People of the United States, and to all their fellow citizens, the *other* claimants upon Spain. To them it was due, that, if the Treaty should be ratified, and Mr. Meade be a claimant under it, his claim should stand on the same foundation, and pass through the same ordeal with the rest. The American Government knew that it was so stipulated in the Treaty, and they little expected the pretension, that, by this separate transaction between him and the Spanish Government, the Treaty being yet unratified, the nature of the engagements of the United States, in it was changed, if it ever should be ratified; that they would be bound to receive, as settled, claims which they had engaged to receive, as unsettled, and to take the dictum of a Spanish tribunal, as the decision which the Treaty had trusted exclusively to an American Commission.

Mr. Meade, himself, and the learned counsel whom he has employed, in this country, know better. They were the first to doubt whether his claims were provided for by the Treaty at all. They clearly saw that, if provided for, it was only upon the same terms and upon the same conditions with all the rest. His memorial to the President of the United States, objecting to the ratification of the Treaty, was on the avowed and only ground that it had not provided for the satisfaction of *his* claims. He demanded that the ratification of the Treaty should be refused, or given upon condition, that a new article should be added, providing for the payment, in full, of his claims; that the Floridas should be sacrificed, and the only hopes of many hundreds of other claimants *blasted*, that *he* might be sure to receive, at the expense of the United States, payment, to the last mavedi, of what a Spanish tribunal had, since the Treaty was concluded, awarded him, as a debt due to him from Spain. His memorial insisted that neither Spain nor the United States had ever possessed the *right* of making, between themselves, a composition of his claims; and without being aware, or mindful, that if this position was true, the irresistible conclusion from it was, that they were not included in the treaty at all, and remained in full force against Spain, as if the Treaty had never been made, he yet required that the United States should make the ratification of this Treaty *conditional* upon the assent of Spain to *another*, by which *his* claims should be distinguished from all the rest; admitted without asking questions, and paid without the deduction of a *mille*. And the principal argument for this moderate proposal was, that *his* claims upon Spain were such, that the American Government has never possessed the right of interfering, to support them against Spain, at all.

Thus Mr. Meade, himself, and his learned counsel, first raised the question, whether his claims were included among those provided for by the

Treaty; and, if they failed of convincing the President and Senate of the United States of the propriety of withholding the ratification of the Treaty which they had made, to exact the consent of Spain to another, which they had *not* made, they conclusively proved, that the United States had never been under obligations of negotiating with Spain concerning them, at all; and gave plausible color, at least, to the belief, that his claims, not being embraced by the provisions of the Treaty, remained in all their force, acknowledged and unimpaired, to be paid, without deduction or compromise, from the Treasury of Spain.

But, after the ratifications of the Treaty had been exchanged, and after the Commission instituted under it was organized, Mr. Meade produced before them his claims, as being among those provided for by the Treaty; and when the Commissioners, in the discharge of their duty to their country, and to all the other claimants whose rights and interests were involved in the decision—when the Commissioners, yielding to the force of arguments which had been most strenuously urged by Mr. Meade, himself, and counsel—when the Commissioners, seeing in the Treaty, which was their law, no mention of Mr. Meade's claim, by name, and no description of claims, within which it *could*, as a settled and liquidated claim, be embraced—when the Commissioners, men of high and irreproachable character, with the oath of God upon their souls, with no evidence before them, but such as the Treaty must exclude, and no argument but that of Mr. Meade, and of his counsel, excluding his claim from the Treaty—when these Commissioners but intimated an opinion that Mr. Meade's claims were not among those submitted by the treaty to their decision, the basest and most inflammatory anonymous newspaper publications, issued from a prostituted press, for the apparent purpose of intimidating, by defamation, the members of a judicial tribunal, from the discharge of their trust, according to the conviction of their consciences.

Mr. Meade then, too, resorted to the Spanish Minister in this country, for his testimony to prove that it *had* been the intention of the Spanish Government to include his claim among those which were provided for by the Treaty. That Spanish Minister was not the negotiator of the Treaty, nor could he, more than any other person, testify to the intention of the Spanish Government any otherwise than as appeared on the face of the Treaty itself. It has already been said, that, during the negotiation of the Treaty, neither the name, nor the claim of Mr. Meade had ever been mentioned between the negotiators; and that, when it was signed, the Spanish Government had never admitted that he had a valid claim upon them for so much as a dollar. Mr. Anduaga did, however, furnish Mr. Meade with his *opinion*, that Mr. Meade's claim was embraced by the Treaty, and that opinion was laid before the Commissioners. Other claims were also presented to them, involving the same question, whether *contracts* of the Spanish Government had been among the cases provided for by the Treaty; and, at the application of one of the suitors, they addressed a letter to the Secretary of State, suggesting their

impressions, that claims of that description, which the American Government had never been under any obligation to enforce, and in favor of which even their *right* to interfere might be questioned, were not included in the Treaty, the main and obvious object of which was to obtain indemnity for the wrongs of American citizens, entitled, beyond all question, to the full protection of their Government. This letter was laid before the President of the United States, by whose direction the answer was returned, which was conformable to the truth of the facts, and this formed the correspondence, which you state to have been communicated by Mr. Meade to Mr. Anduaga, and by him to your Government.

In concluding the Treaty, the American Government was well aware, and the Spanish Government could not be ignorant, that, by the laws of eternal justice, a nation has, no more than an individual, the *right* of discharging itself from the obligation of its *contracts*, by the agreement of a third party to assume them, without the consent, express or implied, of the party, (whether nation or individual) with whom the contract was made.

The parties to the Treaty well knew, also, that *contracts*, and liquidated, acknowledged debts are not, in their nature, subjects of negotiation; especially not of negotiation between one of the parties, with a third party, not privy to the contract. The duty of a nation, bound by such a contract, is not negotiation, but performance.

They likewise knew, that with regard to the contracts of an individual, born in one country, with the Government of another, most especially when the individual contracting is domiciliated in the country with whose Government he contracts, and formed the contract voluntarily, for his own private emolument, and without the privity of the nation under whose protection he had been born, he has no claim whatsoever to call upon the Government of his nativity to espouse his claim, this Government having no right to compel that with which he voluntarily contracted to the performance of that contract.

But unacknowledged, unsettled, unliquidated claims, form the natural subject of negotiation; and of all negotiation, the necessary and essential character is compromise. Of such claims, whether originating in contract or in wrong, the very application of an individual, to one Government, to assist him in the enforcement of his claims upon another, imports, of itself, the consciousness that he cannot obtain his claims without that assistance, and makes them at once a subject of negotiation and compromise.

For such unliquidated claims, alone, provision was made by the 5th renunciation of the United States in the ninth Article of the Treaty of 22d February, 1819; which, by its terms, is limited to claims of citizens of the United States upon the Spanish Government, *statements of which, soliciting the interposition of the Government of the United States, had been exhibited since the convention of 1802, and until the signature of the Treaty.*

Mr. Meade was a citizen of the United States, who, since the

convention of 1802, and before the signature of the Treaty, had *solicited* the interposition of the Government of the United States, and had presented some general statement of part of his claims. He had specially desired that they should be included in the negotiation of the Treaty, and had been informed of the only terms upon which they would or could be considered in that negotiation; in *common* with the other claims for which it was to provide. They were and could be known to the American Government, only as unsettled and disputed claims, and the *right* to negotiate a compromise for them, in common with the rest, founded upon his own *solicitation*, and the acquiescence of Spain, was not for a moment questioned; but, as an acknowledged claim, the amount and validity of which was known and admitted, and about which the United States and Spain had no right to negotiate between themselves a compromise, not sanctioned by him, it certainly was not included, nor ever intended to be included in the Treaty. From the moment that Spain considers it as such, she contracts the obligation of discharging it, herself, as a contract, the compromise of which neither she, nor the United States, could rightfully negotiate between themselves, without the privity of Mr. Meade, and which, not having been so negotiated, she, Spain, is bound, in honor and in justice to him, to discharge, to the last farthing, from her own Treasury.

This is what Spain can perform without injustice to others. But you will perceive, at a glance, that the Government of the United States could not, without the grossest injustice to their nation, and to all the other claimants, under the treaty, admit that a transaction between Spanish tribunals and Mr. Meade, between the signature and ratification of the treaty, should change the nature of the compact between the United States and Spain, control the express terms of the treaty itself, and bind the commissioners, charged with the duty of ascertaining and deciding the amount and validity of unliquidated claims, to take an acknowledgment in 1820, as evidence of the condition of a claim in 1819. The sum stipulated for payment, by the United States, of *all* the claims assumed, was limited to five millions of dollars. The amount due upon the whole mass might ultimately be found less, or it might exceed that sum. If it should prove less, the balance would be so much less of debt to be paid by the people of the United States. If more, a proportional deduction from the sum awarded to every claimant must be made, each of whom must make this small sacrifice, to the adjustment of all these long standing, perplexed, disputed, and, I may safely say, otherwise *desperate* demands. Those of Mr. Meade, in February, 1819, were assuredly not less desperate than the rest. To allow that a Spanish tribunal, long after the treaty ought to have been ratified, and while Spain retained the power of ratifying or rejecting it, should select this claim of Mr. Meade from all the rest, to invest it with the exclusive and invidious exemption from the scrutiny to which all others must be subjected; that it should be taken out of the treaty for examination and settlement, and cast back upon the treaty for payment in full; that it

should be screened from all investigation, and privileged from all proportionable deduction; that the people of the United States and the fund devoted to the just indemnity of many hundred claimants, should be doubly ransomed, to satisfy the plenitude of that claim, and in reverence to the dignity of tribunals, which, under the treaty, had no right to pass upon it at all, would be as wide from all the duties of the American Government, as from the dictates of justice, and as far from its present intentions, as from those of either party to the treaty, at the time of its conclusion.

It was intended, by the Government of the United States, that Mr. Meade's claims, as then exhibited to them, unsettled, disputed claims, of a mixed character, for contracts; for losses upon exchange; for depreciation of Spanish Government paper; for interest, and for damages, all, except the first, of most uncertain amount and validity, should, in common with the other claims provided for, have the benefit of the treaty. But no stipulation of special favor to the claims of Mr. Meade, at the expense of other claimants, was, or could be, intended by the Government of the United States. The claim presented by Mr. Meade to the commissioners, is for an acknowledged debt from the Spanish Government to him, dated May, 1820, and directed to be paid out of the funds of the royal finance department, with interest. To say that this is not the claim which, in February, 1819, the United States had renounced and agreed to compound, would be to say that daylight is not darkness. Mr. Meade might, with as much propriety, have purchased in the market, at its current price, any other order upon the funds of the royal finance department, and brought it before the commissioners as a claim provided for by the treaty, as he could this order—a part of the sum constituting which, was for interest accrued after the treaty had been signed.

Of the obligation of the Spanish Government to pay Mr. Meade, with interest, the whole amount of this sum, acknowledged by its own tribunals to be due, there can be no doubt. But it is equally clear that it is not the debt which, in February, 1819, the United States had agreed to assume, to consider as cancelled, and to discharge. It was not the claim which had been exhibited, or had even existed, in February, 1819. It was a claim of a totally distinct and different character. It was a new obligation of Spain, for which no provision had been made by the treaty, and with which the United States could not, without injustice to themselves, and to all the other claimants, be charged.

By the intention of including Mr. Meade's claims among those provided for by the treaty, at the time of its negotiation, the American Government had shewn its kindness towards him to the utmost verge of its compatibility with their duties to others. Mr. Meade's claims, as then existing, however meritorious as against Spain, were far from being, against the United States, as deserving as many others with which they were to share the benefit of the treaty. They were claims, part of which were for supplies to support the Ally of Spain, then, or very shortly after, the enemy of the United States;

supplies to maintain a cause to which, so far as concerned Spain, the United States were neutral, but which, by its inseparable connection with Great Britain, was the cause of that nation against Mr. Meade's country. There was no one point of view in which those claims could be considered, that gave them a title to the special favor or support of the *American* Government, or nation, and by extending to them the advantages of a composition which they were enabled to effect with Spain, of numerous other, and far more meritorious claims, in meaning to do equal justice to all, they perhaps did more than justice to Mr. Meade.

While, therefore, your position, that the Spanish nation was certainly responsible (to Mr. Meade) for the *total* amount of the acknowledged debt is indisputable, His Catholic Majesty will find, by further examination of the treaty, that the Government of the United States *did not* take upon itself, *by the latter ratification of the treaty*, nor ever, in any other manner, *this debt*. The fifth renunciation of the ninth article of the treaty, neither did, nor could, nor was ever intended to, include this debt. And the latter ratification of the United States, neither did, nor could, in the slightest degree, alter the character of the obligation which the United States had contracted on the face of the treaty, on the 22d of February, 1819. The fifth renunciation, upon its face, and by its terms, was limited to claims stated, but unsettled, of uncertain amount and validity, as existing at the *signature* of the treaty. The ratification of the United States could no more change the import of this renunciation, than it could change the *words* in which it was expressed. The 4th article of the treaty reserves the examination and decision of the *amount* and *validity* of all the claims assumed by the United States, for the *exclusive* cognizance of a commission of American citizens; and whoever appears before them, as a claimant under the treaty, must abide by their decision, conformably to the treaty. For all subsequent engagements, contracts, and *debts* of the Spanish Government, whether with Mr. Meade, or with any other claimants, Spain, and not the United States, is chargeable. If Mr. Meade claims the benefit of the treaty, by the treaty must he submit to be judged; and, according to the terms of the treaty, must he receive his indemnity. If he means to resort to engagements, or *debts*, subsequently contracted, or to the decisions of Spanish tribunals, to Spain alone must he have recourse for satisfaction. This conclusion cannot be departed from by the Government of the United States. It is due to the plain intent and unequivocal language of the treaty;—it is due to the rights and interests of the People of the United States;—it is due to those of many hundreds of their citizens, whose demands upon the justice of Spain were at least as strong and clear, and whose right to the support and protection of their country was, at least, more perfect and unequivocal, than those of Mr. Meade. Special, unstipulated *favor* to him, would be flagrant injustice to them.

When, therefore, in the conclusion of your letter, you beforehand solemnly and respectfully protest against any decision of the commis-

sioners appointed in virtue of the treaty, which *invalidates*, in any manner, the *acknowledgment* made by your Government of the *total* debt of Mr. Meade, agreeably to the certificate which they sent to him in consequence, and which you state to be in possession of the commissioners, I am directed to say in answer: First, That the Government of the United States have, no more than the Government of Spain, the right or authority to dictate or control the decisions of the commissioners appointed by virtue of the treaty of the 22d of February, 1819; and that, as the United States will not assume, themselves, so they will not suffer, from Spain, the exercise of any such dictation or control, alike repugnant to the principles of impartial justice, and to that judicial independence, which constitutes the excellence and the glory of the institutions, both of this country and of Spain.

And, secondly, That there neither has been, nor is there reason to expect, any decision of the commissioners, to *invalidate*, in any manner, any *acknowledgment*, by your Government, of the total debt to Mr. Meade; the *validity* of any such acknowledgment being, like the obligation which it imports, for the exclusive cognizance of the Spanish Government itself, and importing neither obligation nor authority, for which the United States are answerable, or the charge of which they have ever consented to assume.

I pray you, sir, to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

DON HILARIO DE RIVAS Y SALMON,  
*Chargé d'Affaires from Spain.*

( No. 32. )

*Mr. Brent to Mr. Salmon.*

DEPARTMENT OF STATE,

*Washington, September 22, 1824.*

SIR: I was directed by the Secretary of State, before his late departure from this city, to furnish the Attorney of the United States for the Eastern District of Pennsylvania with an extract from your letter to him of the 16th of August, and, at the same time, to request that officer to adopt such measures as might be deemed advisable to the preservation of the neutrality of the United States, and the vindication of their laws, in reference to certain armaments which you state to have been already prepared, and to others which are now preparing in the port of Philadelphia, for the use and on account of some of the South American States in the contest in which they are engaged with Spain; and I lost no time in complying with the Secretary's instructions.

I have the honor now, sir, to transmit to you a copy of Mr. Ingersoll, the District Attorney's letter, in answer to the one which I addressed to him in pursuance of the Secretary's instructions, includ-



ing a short correspondence between himself and the Collector of the Customs at Philadelphia, which I flatter myself will prove abundantly satisfactory as to the armaments in question, already sent forth from the port of Philadelphia, and entirely remove any apprehensions which you may entertain, with regard to those which are in a train of preparation at the same port.

I pray you, sir, to accept the assurance of my very distinguished consideration.

DANIEL BRENT.

DON HILARIO DE RIVAS Y SALMON,  
*Chargé d'Affaires from Spain.*

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(No. 33.)

*Don Hilario de Rivas y Salmon, to Mr. Brent.*

[TRANSLATION.]

LEGATION OF SPAIN,

*Philadelphia, 29th Sept. 1824.*

SIR: I have had the honor of receiving your note, in absence of Mr. Adams, in answer to mine of the 16th of August last, relative to the illegal armaments which have been made in this port, on account of the separated governments of Spanish America.

I shall, as soon as possible, transmit its contents to my Government; but I cannot say that it will be so satisfactory as you flatter yourself, as, at the very time that you were writing that note, three of the *twelve gun-boats*, which I said were building on account of the Colombian Government, were dropping down the river, and two more have sailed since; all despatched in the name of a Mr. H. Somers, scarcely known in this place. It is true, as I have been informed, the custom-house did not permit them to take on board the armament which they had prepared, close by the very arsenal of the United States: but this is of little moment, because they can easily send this armament in another vessel as ballast. They run no risk in doing this, as they have done it before on many occasions. I do not understand, however, that the custom-house has used more rigor with these Colombian vessels, than with those despatched by Mr. Meade to Mexico; because, if by chance there was any difference in the force or armament, between these vessels and the former, they were stronger than those just sailed: and if the custom house do not consider cannon of *very large calibre, and upon pivots*, as an armament, but as mere *signal guns*, as it appears the guns which these vessels ought to carry will be signal guns, as those were which the others carried; and, in this case, it will be cruelty to prevent those that sail now from carrying them, as well as the others *mounted on deck*, that they may be ready in case of need. But you will be pleased to observe, that, if said artillery were embarked for the sole purpose of *signals*, there

could be no necessity for each boat carrying *two* pieces, nor for their being of so large a calibre as from 24 to 32 pounders, much less for any of them being on pivots; because, for making signals, it is not necessary to take aim, which is the only intention of a pivot-gun. It is to be observed, that the Fiscal (or Attorney General) of the United States for this district, was unable to obtain the legal proofs which he sought from the different persons employed by the custom house, whose information it was easy to anticipate; because, it is to be supposed, that, if they had considered said armaments as illegal, they would not have been wanting to their duty in permitting them to sail with them. Upon the whole, it appears by their correspondence with the said Fiscal, that they were not entirely ignorant by whom, and for whom, these gun-boats were building. Neither are they fit for trade, nor can it be presumed that either Mr. Meade, or Mr. Barry, who have retired from business, would make use of them. This, alone, in my opinion, ought to have infused a suspicion, founded on the real object which they had, and was a just cause for detaining them, to investigate the case with certainty. The *ten gun boats*, which Mr. Meade despatched in this port, are not the only vessels which he has got built in the United States on account of the Government of Mexico. According to information which I have, very worthy of credit, he has caused some more to be built in Baltimore, although, there, his name has not been mentioned. One of them, now called the "Yguala," detains vessels of the United States themselves, which go to the ports of Mexico, as I have lately seen in the newspapers. Another, called "*Anahuæ*," a most beautiful schooner of 238 tons, came here before going to Mexico, carrying the armament in the hold, which consisted of twelve cannons, 18 pounders, with their carriages, besides other arms and oars, &c. She was despatched from hence with some cargo, by Mr. R. Adams, under the command of one Whigman, and at present is in New York, now with the Mexican flag. Her present captain, *Cochrane*, is a native of that port, where, likewise, his family resides.

The Colombian privateer, "*the General Santander*," of which I made mention in the note which you answer, a little after, came into Norfolk, with a crew of 250 men, who only speak English; and although he who at present commands her is not now *Chase*, but one *NORTHRUP*, likewise a citizen of the United States, a native of Connecticut. In that port he recruited men, and augmented his force with *four officers*, and the crew of another Colombian privateer that was in Baltimore, and belongs to Daniels, of whom I also spoke, at that time. Being thus supplied, he sailed, to cruize off New York, where there is a Spanish vessel, which cannot sail without great risk of falling into his power. Thus it may be said, that Spanish vessels seem blockaded in the ports of the United States themselves, through the agency of their citizens. The Consul of Spain gave information of this to the competent authorities, that they might put a stop to it; but all excused themselves, saying they could not do it—that the laws upon this point were not sufficiently positive and clear. The same thing was told to the acting Vice Consul of Spain, in Charles-

stop to it; but all excused themselves, saying they could not do it; that the laws upon this point were not sufficiently positive and clear. The same thing was told to the acting Vice Consul of Spain in Charleston, on another occasion, by the *Marshal* of the United States in that district, (whose original letter I have in my possession;) and Mr. *Ingersoll* gives the same understanding, in his correspondence, which you now enclose to me. But, as I have already said before, His Catholic Majesty has nothing to do with the peculiar laws of this country. They, such as they are, are the exclusive work of the United States, and Spain, in this point only, ought to attend to the treaties.

But how do the United States fulfil these treaties with Spain? If His Majesty's representative have recourse to the Federal Government, to prevent the armaments which the citizens of the United States fit out, to commit hostilities upon the Spanish commerce under insurgent banners, he is told, that there are *laws* which have respect to the treaties, and *tribunals* which put them in force, and that it is necessary to apply to them. When, in virtue of this, His Majesty's consuls apply to those *tribunals*, requesting the punishment of such citizens as have applied for, and accepted, commissions from Governments, enemies of His Catholic Majesty, they declare that they have no jurisdiction for it. When they request of the custom-houses (or other authorities) the detention of vessels built, armed, and manned in this country, on account of those governments, or of individuals who attempt hostilities against Spain; they answer, that the *laws* are not sufficiently clear, and that they have not sufficient authority. If said vessels carry the armament in the hold, it is called *ballast*. If the artillery is mounted on deck, it is to make signals *only*. The consequence is, that these vessels and armaments, and citizens of the United States sail publicly and without any risk, and that they continue making innumerable prizes, and cause immense losses to the Spanish nation.

Permit me, sir, to make another important observation. A learned man, so eminent as Mr. *Ingersoll*, charged with the execution of the laws of the United States, ought not to be ignorant of them: and when he says, that he does not know, in the present case, another law applicable to it, but the act of Congress of the 20th of April, 1818, it is to be believed that there is no other. But if, in effect, there be no more law than this for preventing the armaments which are made here, and punishing the citizens of the United States, who, with commissions of foreign states or governments, make war on his Catholic Majesty, the irresistible consequence is, that the laws of the United States contradict one another. Because here we have one law, which is the present act, which prescribes to the courts an *arbitrary* punishment, to the decision of the judges, of only *fine and imprisonment* to the citizens, for instance, who accept and make use of commissions of any state or government at war with a power at peace with the United States; whilst there is another, sanctioned at the same time also by Congress, which are the treaties with Spain, which

point out a *determinate* punishment against those delinquents, and it is that of *death*, because they are called *pirates*. To which of these two laws, differing upon the same case, ought the tribunals to have recourse? They cannot depart from the letter of the law, nor impose *the punishment of death*, if they hold to the former, which prescribes only *fine and imprisonment*. I will not conceal from you, sir, that if, in the United States, there is no other law than the act cited by Mr. *Ingersoll*, respecting illegal armaments, I have few hopes that the federal government can, with it alone, duly fulfil the existing treaties with Spain, although it should recommend the greatest vigilance to the local authorities. Besides, such an act appears to me little serviceable and insufficient for the effect. The officers of the custom-house *may*, in virtue of this act, detain a vessel which they know or suspect to carry an illegal armament; but what responsibility have they if they do not? I see none. What obligation have they to inquire into these armaments? None. They are not ordered to take this trouble. Who will come to inform them of what is passing? No citizen of the United States has an interest in doing it; rather the contrary. What then signifies this act, which appears so completely to defeat the intention of *the 14th article* of the treaty of 1795, with Spain? Can it be said that Congress, at the passing of said act, did not bear the treaties in mind? or, will it be said (and may be even much worse) that it knew it, but that still it addressed the tribunals in other words; the following for example:

“The treaties which we have with Spain call such of our citizens *pirates*, as, with foreign commissions, make war upon her; and, consequently, they incur, thereupon, the *penalty of death*. But we declare by this, that you ought not to fulfil this part of the treaty. The *Government* of the United States, who concurred with Spain in imposing upon them a punishment so severe, atrocious, and disproportioned to the offence, was wanting to its duty, and to the confidence of the nation which it governs. The *Senate*, which approved the treaty at that time, was not worthy of us, who, as being more illustrious, establish other laws more rational and humane. His Catholic Majesty will be very well satisfied with imposing upon these delinquents *a fine and imprisonment*, at your pleasure. To *diminish* the punishment is not to *change the treaty*.”

The consequences of such a doctrine would be fatal. What would succeed if other nations should follow this example? England has just made a convention with the United States, as appears, relative to the abolition of *the slave trade*. If any of the two contracting parties should, *afterwards*, alter the punishment of those who are declared *pirates*, would not this be to change the essence of their stipulations, and in fact to annul such convention? It would be utterly to destroy the treaties which bind nations, if it were permitted to alter them in this manner, by the particular legislation of each. Thus, then, it is not possible to expect this immoral and Machiavelian language from any government of the civilized world; and it would be doing the greatest injury to the respectable and august Congress of the

United States, to believe that it would, on any occasion, alter, intentionally, the literal sense of the treaties; in the religious fulfilment of which its own honor is concerned. Whatever may be the defect which may be observed in the act of the 20th of April, (and what human law has not defects!) I am well persuaded that the intention was not *to alter*, as appears at first view, but, on the contrary, *to enforce* the fulfilment of the stipulations of the treaty referred to with Spain, although experience has proved that that noble object has not been realized, as we see, by the infractions which still continue to be committed in spite of it; and that the officers of the United States, themselves, do not hit upon the proper means of fulfilling it, and interpret it in different ways, to the incalculable loss of Spain.

I have just received a letter from Charleston, an extract of which I have the honor to enclose, which will give you some idea how considerable these losses and damages must be. You will be pleased to remark, that that port was one of those which the privateers of which I complain frequented less till now: but the evil is spreading, and augments, in an extraordinary degree every day, doubtless, because they see how little they have to fear in this country the consequences of their shameful intrigues. The privateer named the "*Padilla*," of which it speaks, was last in the same port of Charleston, commanded apparently by a Frenchman, called *Daverac*, but the true captain was (and when she sailed commanded her) one *Bradford*, a native of the United States; (as well as, also, were a great part of the crew which she carried,) and having there surreptitiously augmented their number, returned to cruise against the Spaniards. Only since I sent my last note to *Mr. Adams*, two more Spanish prizes have entered, which I know, into the ports of this Union. One is the brig "*Cazador*," of which the enclosed letter speaks, and another is the schooner "*Tereza*," which has gone into Savannah to the care of one *Bureil*, a prize of the same privateer, the "*Polly Hampton*." Such privateers, availing themselves of various pretexts and subterfuges, easily dispose of their robberies here. This is public and notorious, and there is no cause to conceal it, if they see that it can be done with impunity. And, in truth, how can they cease to see this, if even the newspapers of the same United States publish and *celebrate* the part which they take against Spain, in the war with the revolted governments of her America, not as if it were some private and obscure citizen of the United States, but even men of the greatest distinction for their talents and rank in society, and *officers* of the very government. The enclosed newspaper, which came to my hands a little after having sent my last note to *Mr. Adams*, is an undeniable proof of this. By it you will see, sir, that a *Consul General* of the United States, putting himself at the head of a body of insurgents in South America, has been, probably, the cause of his Catholic Majesty losing one of his best kingdoms.

I have been more diffuse in my thoughts, with the view of letting you know how little good has been produced by the means hitherto taken by the federal government, to prevent the armaments of which

I complain, and you supposed there was no reason to fear in future, whilst they were still continuing to carry them on. I will conclude by requesting that you will be pleased to inform the President of it, in order that, if he sees fit, he may adopt other means, more efficacious and satisfactory to his Catholic Majesty. I should be very happy, if on this occasion, I could assure his Majesty that the correct intentions of the President would in future be realized, and that he had no reason to fear the sailing of more armaments from the ports of the United States against the Spanish trade.

In the mean time, I have much satisfaction in the honor of offering to you the assurances of my respect and attentive consideration.

HILARIO DE RIVAS Y SALMON.

(No. 33—a.)

*Copy communicated with Mr. Salmon's letter to Mr. Daniel Brent, of 29th September, 1824.*

CHARLESTON, 19th September, 1824.

“One vessel had been fitted out of this port to cruize against the property of Spaniards; she was a sloop, called “*Amelia*.” Said vessel was captured by the Spanish.

“Several vessels arrived in this port, under the insurgent flag, have augmented their force in arms and men. This may be ascertained by some persons who shipped them; one, however, who was very instrumental in this business, died a few days ago of the yellow fever.

“There have, and continue to arrive, prizes taken by vessels under the insurgent flags, who come in and pretend distress, and get liberty to sell a sufficient quantity to defray expenses, or repairs, &c. under which permission they generally sell greater part of their plunder. This is the general impression.

“Yesterday arrived the *Spanish brig* “*Cazador*,” *Williams*, with sugar, leather, corn, &c. prize to the Colombian armed schooner “*Polly Hampton*.” *Captain Nutty*, captured four weeks since off Havana, in distress, leaky, bound to Cumana, Spanish Maine, having sprung aleak on the 14th inst. This is a very likely story.

“Ought to be taken into consideration. Mr. Ortega's application to the District Judge for process, to have the property, taken by the “*Padilla*,” restored; she having made captures contrary to the law of nations, which he refused hearing.

“One of the prizes of the “*Centella*” being run ashore at Key West, with an understanding of a certain *Captain Appleby*, part of the cargo was sent here to Mr. Street & Co. say, value about \$15,000, sugar, segars, cochinnelle, indigo, &c.; the remainder was sold by the Captain of the schooner, at public auction; with which circumstance, I believe you are acquainted.”

(No. 34.)

*Extract of the General Instructions, No. 1, from Mr. Adams, Secretary of State, to Mr. Nelson, Minister Plenipotentiary to Spain, dated*

## DEPARTMENT OF STATE,

*Washington, 28th April, 1823.*

“The critical and convulsed condition of Spain, may indeed bring forth many incidents, now unforeseen, and upon which the President relies upon your own judgment for the course which, under them, you will find it prudent to pursue. But, with regard to the ordinary relations between the two countries, there are various objects upon which I now proceed to request your attention.

The renewal of the war, in Venezuela, has been signalled, on the part of the Spanish commanders, by proclamations of blockade, unwarranted by the laws of nations, and by decrees, regardless of those of humanity. With no other naval force than a single frigate, a brig, and a schooner, employed in transporting supplies from Curacoa to Porto Cabello, they have presumed to declare a blockade of more than twelve hundred miles of coast. To this outrage, upon all the rights of neutrality, they have added the absurd pretension of interdicting the peaceable commerce of other nations, with *all* the ports of the Spanish main, upon the pretence that it had, heretofore, been forbidden by the Spanish colonial laws: and, on the strength of these two inadmissible principles, they have issued commissions, at Porto Cabello, and in the island of Porto Rico, to a swarm of privateers, which have committed extensive and ruinous depredations upon the lawful commerce of the United States, as well as upon that of other nations; and, particularly, of Great Britain.

It was impossible that neutral nations should submit to such a system; the execution of which has been as strongly marked with violence and cruelty, as was its origin with injustice. Repeated remonstrances against it have been made to the Spanish Government, and it became necessary to give the protection of our naval force to the commerce of the United States, exposed to these depredations.

By the act of Congress, of 3d March, 1819, “to protect the commerce of the United States, and punish the crime of piracy,” the President was authorized to instruct the commanders of the public armed vessels of the United States to *take* any armed vessel “which shall have attempted or committed any piratical aggression, search, restraint, depredation, or seizure, upon any vessel of the United States, or of the citizens thereof, *or upon any other vessel*; and, also, to retake any vessel of the United States, or its citizens, which may have been *unlawfully* captured upon the high seas.”

A copy of this act, and of the instructions from the Navy Department, to the officers who have been charged with the execution of it, are herewith furnished you. The instructions will enable you to show how cautiously this government, while affording the protection due to the lawful commerce of the nation, has guarded against the infringement of the rights of all others.

The privateers from Porto Rico and Porto Cabello, have been, by their conduct, distinguishable from pirates, only by commissions of most equivocal character, from Spanish officers, whose authority to issue them, has never been shown: and they have committed outrages and depredations which no commission could divest of the piratical character. During the same period, swarms of pirates, and of piratical vessels, without pretence or color of commission, have issued from the Island of Cuba, and the immediate neighborhood of the Havana, differing so little in the composition of their crews and their conduct, from the privateers of Porto Cabello and Porto Rico, as to leave little distinction other than that of being *disavowed*, between them. These piracies have now been for years continued, under the immediate observation of the government of the Island of Cuba; which, as well as the Spanish government, has been repeatedly and ineffectually required to suppress them. Many of them have been committed by boats, within the very harbors, and close upon the shores, of the Island. When pursued by superior force, the pirates have escaped to the shores: and twelve months have elapsed since the late Captain General Mahy refused to Captain Biddle the permission to land even upon the desert and uninhabited parts of the Island, where they should seek refuge from his pursuit. Governor Mahy at the same time declared that he had taken the necessary measures to defend his territorial jurisdiction, and for the apprehension of every description of outlaws.

Governor Mahy is since deceased; but neither the measures which he had then taken, nor any since adopted by the government of the Island, have proved effectual to suppress, or in any manner even to restrain the pirates. From the most respectable testimony, we are informed that these atrocious robberies are committed by persons well known, and that the traffic in their plunder is carried on with the utmost notoriety. They are sometimes committed by vessels equipped as merchant vessels, and which clear out as such from the Havana. It has also been remarked, that they cautiously avoid molesting Spanish vessels, but attack without discrimination the defenceless vessels of all other nations. You will see by a letter from Lieut. Gregory to the Secretary of the Navy (p. 64 of the printed documents) that a large portion of the crews of the Porto Rico privateers consist of these same pirates from Cuba.

In November last, a gallant officer of the Navy, Lieutenant Allen lost his life in a conflict with some of these pirates; and an armament was immediately afterwards fitted out, and is now on the spot, under the command of Commodore Porter, for the defence and protection of our commerce against them. Notice was despatched of this movement, to Mr. Forsyth, by a special messenger, in January last, with instructions to him to require of the Spanish government the permission to land in case of necessity, in pursuit of the robbers. Copies of the instructions from the Secretary of the Navy are herewith furnished. From this statement of facts, it is apparent that the naval officers of the United States, who have been instructed to pro-



fect our commerce in that quarter, have been brought in conflict with two descriptions of *unlawful* captors of our merchant vessels, the acknowledged and disavowed pirates of Cuba, and the ostensibly commissioned privateers from Porto Rico and Porto Cabello; and that in both cases, the actual depredators have been of the same class of Spanish subjects, and often probably the same persons. The consequence has been, that several of the commissioned privateers have been taken by our cruisers; and that, in one instance, a merchant vessel belonging to the Havana, but charged upon oath of two persons as having been the vessel from which a vessel of the United States had been robbed, has been brought into port, and is now at Norfolk, to be tried at the next session of the District Court of the United States. In all these cases, the Spanish minister, Anduaga, has addressed to this Department complaints and remonstrances, in language so exceptionable, that it precluded the possibility of an amicable discussion of the subject with *him*. In some of the cases, explanations have been transmitted to Mr. Forsyth to be given in a spirit of amity and conciliation to the Spanish government. But as your mission affords a favorable opportunity for a full and candid exposition of them all, copies of the correspondence with Mr. Anduaga, relating to them, are annexed to these instructions, to which I add upon each case of complaint, the following remarks:

1. The first is the case of a man named Escandell, prizemaster of a Dutch vessel called the Neptune, taken by a privateer armed in Porto Cabello, called the Vergen del Carmen, and retaken by the United States' armed brig Spark, then commanded by Captain John H. Elton, since deceased. From the report of Captain Elton, it appears, 1st. That the Dutch vessel had been taken within the territorial jurisdiction of the Dutch island of Curraçoa. 2d. That he, Captain Elton, delivered her up to the Governor of the Island of Aruba. 3d. That he retook her, as a vessel piratically captured, the prizemaster, Escandell, having produced to him no papers whatsoever. He therefore brought him, and the prize crew, to Charleston, S. C. where they were prosecuted as pirates.

Mr. Anduaga's first letter to me on this case was dated the 24th of July, 1822, enclosing a copy of a letter from Escandell, to the Spanish Vice-Consul at Charleston, invoking his protection; Escandell being then in prison, and under an indictment for piracy. He solicits the interposition of the Vice-Consul, that he may obtain from the Captain General of the Havana, and the commanding officer at Porto Cabello, documents to prove that he was lawfully commissioned: and he alleges, that the captain of the privateer had furnished him with a *document*, to carry the prize into Porto Cavello; that he did deliver this document to Captain Elton, who *concealed* it from the court at Charleston; that Elton and his officers well knew that he, Escandell, was commissioned by the King of Spain, and had assisted at the disembarking of General La Torre, with the privateer and the prize, but that Elton had withheld his knowledge of these facts from the Grand-Jury. Mr. Anduaga's letter to me noticed this contradiction between

the statement of Captain Elton. and the declaration of Escandell, and requested that the trial at Charleston might be postponed till he could receive answers from the Captain-General of the Havana, and the commandant of Porto Cavello, to whom he had written, to obtain the documents necessary to prove the legality of the capture. This was accordingly done.

This letter of Mr. Anduaga was unexceptionable in its purport; but, on the 17th of October, he addressed me a second, enclosing the papers which he had received from Porto Cavello, and assuming a style of vituperation, not only against Captain Elton, then very recently dead, but against the Navy in general, the Government, and even the people of the United States, which required the exertion of some forbearance to avoid sending it back to him, as unsuitable to be received at this Department from a foreign minister.

It was the more unwarrantable, because, while assuming, as proved, against an officer of the United States, no longer living, to justify himself, that he had *concealed* documents furnished him by Escandell, he declares it "evident, that not the public service, but avarice, and the atrocious desire of sacrificing upon a gibbet the lives of some innocent citizens of a friendly power, were the moving principles of this commander's conduct." To those who personally knew Captain Elton, what language could reply in terms of indignation adequate to the unworthiness of this charge? And how shall I now express a suitable sense of it, when I say that it was advanced without a shadow of proof, upon the mere original assertion of Escandell, made in the most suspicious manner, and which the very documents from Porto Cavello tended rather to disprove than to sustain.

It was made, I say, in the most suspicious manner: for, in his affidavit before the Clerk of the United States' Court at Charleston, made on the 8th of June, 1822, where he might have been confronted by Captain Elton and the officers of the *Spark*. Escandell had not even hinted at this concealment of his papers, by Captain Elton, or pretended that he had produced any to him. But, *after* he had been arraigned upon the indictment, and after the Court had, at the motion of his counsel, postponed his trial to the next term, for the express purpose of giving him time to obtain proof that he had been commissioned, in a secret letter to Castro, the owner of the privateer, at Porto Cavello, and in another to the Spanish Vice Consul at Charleston, he makes these scandalous allegations against Captain Elton, at times and places where he could not be present to refute them. That the documents from Porto Cavello, transmitted to Mr. Anduaga, tended rather to disprove than to sustain them, you will perceive by an examination of the translations of them herewith furnished you. The only documents among them showing the authority under which Escandell, when captured by Captain Elton, had possession of the *Neptune*, is a copy of the commission of the privateer *Virgin del Carmen*, which had taken the *Neptune*, and a declaration by the captain of the privateer, Lorenzo Puyol, that, on capturing the *Neptune*, he had put Escandell as prize-master, and six men on board of her, ordering her into the port of Cavello, and furnishing

Escandell *with the documents necessary for his voyage.* No copy of these documents is produced; and the declaration of this Captain Puyol, himself, is signed only with a cross, he not knowing how to write his name.

It is conceived that the only admissible evidence of Escandell's regular authority as prize master of a captured vessel, would have been an authenticated copy of the document itself, furnished him by Puyol. The extreme ignorance of this man, who appears, on the face of his own declaration, unable to write his own name, raises more than a presumption that he knew as little what could be a regular document for a prize master; and is by no means calculated to give confidence to his declaration as a substitute for the authentic copy of the document itself. The absurdity of the imputation of avaricious motives to Capt. Elton, is demonstrated by the fact, that he delivered up the prize, which was a Dutch vessel, to the governor of Aruba, and to her original captain: and as to that of his having concealed Escandell's papers, to bring him and six innocent seamen to a gibbet. I can even now notice it only to leave to the candor of the Spanish government whether it ought ever to be answered.

Copies are herewith furnished of Captain Elton's report of this transaction to the Secretary of the Navy; of the agreement by which the Neptune was by him delivered up to the Dutch commandant at the Island of Aruba, Thielen; and of the receipt given by her original captain, Reinar Romer, to whom she was restored. In these documents you will see it expressly stipulated, both by the Dutch commandant and by Captain Romer, that the "vessel and cargo, or the value thereof, should be returned to any legal authority of the United States of America, or to the Spanish government, or prize claimants, *in due course of the laws of nations.*" You will find, also, that, in the document signed by Captain Romer, he expressly declares that the persons by whom he had been captured, *purported* to belong to a Spanish felucca privateer, but, *not having any credentials or authority* to cruise upon the high seas with them, *he supposes them to have been pirates.*

This declaration of Romer himself is directly contradictory to the assertion, which Escandell, in his affidavit at Charleston, on the 8th of June, 1822, pretends that Captain Romer made to the boarding officer from the Shark, in answer to his inquiries whether Escandell and his men were pirates. Escandell says that Romer answered, they were *not*; Romer himself says that he supposes they were.

You will remark that, in the copy of Escandell's affidavit, transmitted by Mr. Anduaga to the Department of State, the name of the Dutch Captain of the Neptune is written Reinas Buman, apparently by mistake in the copy. The name, as signed by himself, is Reinar Romer.

On a review of the whole transaction, as demonstrated by these documents, it will be seen that the conduct of Captain Elton was fair, honorable, cautiously regardful of the possible rights of the captors and Spanish Government, and eminently disinterested. He retook the

Neptune, a Dutch vessel, at the request of an officer of the Dutch Government. He had already known and protected her as a neutral, before. He restored her to her Captain, without claiming salvage, and upon the sole condition that the Dutch Governor should restore to their owners, citizens of the United States, the proceeds of a vessel and cargo, also wrongfully captured by a Spanish privateer, and which had been brought within his jurisdiction. And he provided, that, if the capture of the Neptune should eventually prove to have been lawfully made, the Dutch commandant and the Captain of the Neptune himself should be responsible to the Spanish and American Governments and to the captors, for the result.

I have entered into this detail of the evidence in this case, not only to give you the means of satisfying the Spanish Government, that the complaints of Mr. Anduaga, against Captain Elton, were as groundless in substance, as they were unjust to him, and disrespectful to this Government and nation in form; but to vindicate from unmerited reproach the memory of a gallant officer, of whose faithful and valuable services his country had been deprived, by death, only twenty days before these dishonorable imputations were cast upon him by Mr. Anduaga.

The harshness and precipitation of that Minister's judgment in preferring this complaint, is the more remarkable, inasmuch as he avows, in that very note, the opinion that the bare word, without proof, of a *merchant* captain, is not evidence sufficient to furnish even a *pretext* to the naval officers of the United States, to attack the armed vessel, by which he had been plundered. If the word of the captain of a merchant vessel, supported by his oath, were of such trivial account, of what weight in the scale of testimony, is the bare word of a captain of a privateer, who cannot write his name, to prove the existence and authority of a written or printed document, pretended to have been given by himself.

If the capture of the Neptune by Puyol, had been lawful, her owners would at this day possess the means of recovering indemnity for their loss by the recapture, in the written engagements of the Dutch Commandant Thieleman, and of captain Romer. But it was not lawful. By the documents transmitted by Mr. Anduaga, it appears, that a part of the cargo of the Neptune, after her capture by the Virgen del Carman, had been transhipped to another vessel, and that, at Porto Cavello, it was condemned by captain Lavorde, commander of the Spanish frigate Ligera, who had issued the privateer's commission, and then sat as Judge of the Admiralty Court upon the prize. And the sole ground of condemnation assigned, is the breach of the pretended blockade by the Neptune, and her *trading* with the Independent Patriots. You will remark the great irregularity, and incompatibility with the principles of general justice, as well as of the Spanish Constitution, that one and the same person should be acting at once in the capacity of a naval officer, of a magistrate issuing commissions to privateers, and of a judge to decide upon the prizes taken by them.

But the whole foundation of his decision is a nullity. The blockade was a public wrong. The interdiction of all trade was an outrage upon the rights of *all* neutral nations; and the resort to two expedients, bears on its face the demonstration, that they who assumed them both had no reliance upon the justice of either: for, if the interdiction of *all* neutral trade with the Independents were lawful, there was neither use nor necessity for the blockade; and if the blockade were lawful, there could be as little occasion or pretence for the interdiction of the trade. The correctness of this reasoning can no longer be contested by the Spanish Government itself. The blockade and interdiction of trade have, from the first notice of them, not only been denounced and protested against by the Government and officers of the United States, but by those of Great Britain, even when the ally of Spain, and who has not yet acknowledged the independence of the revolted colonies. The consequences of these pretensions have been still more serious to Spain, since they terminated in a formal notification by the British Government, that they had issued orders of reprisal to their squadrons in the West Indies, to capture all Spanish vessels, until satisfaction should be made for the property of all British subjects, taken or detained under color of this preposterous blockade and interdiction. And Spain has formally pledged herself to make this demanded reparation.

2. The second cause of complaint, by Mr. Anduaga, upon which I have to animadvert, is that of the capture of the Porto Rico privateer Palmyra, by the United States' armed schooner Grampus, Lieutenant Gregory, Commander.

With his letter of the 11th October, 1822, Mr. Anduaga transmitted copies of a letter from the Captain of the privateer Escurra, to the Spanish Consul at Charleston, dated the 16th of September, 1822, and of sundry depositions taken at Porto Rico, from seamen who had belonged to her, relating to the capture. The account of the transaction given by Lieutenant Gregory is among the documents transmitted to Congress with the President's message, at the commencement of the last session, pp. 62, 63, 64, to which I refer. The subject is yet before the competent judicial tribunal of this country.

The Captain and seamen of the Palmyra, with the exception of those charged with the robbery of the *Coquette*, were discharged by a decree of the District Court of the United States at Charleston, and the vessel was restored to her Captain; but the Judge, (Drayton, since deceased,) in giving this decree, declared that Lieutenant Gregory had been fully justified in the capture. By a decree of the Circuit Court of the same district, heavy damages were awarded against Lieutenant Gregory; from which sentence there is an appeal pending before the Supreme Judicial Court of the United States. Whatever their final decision may be, the character of the Court is a sure warrant that it will be given with every regard due to the rights and interests of all the parties concerned; and the most perfect reliance may be placed upon its justice, impartiality, and independence. The decision of the Circuit Court, indeed, would imply some censure upon the conduct

of Lieutenant Gregory, and may be represented as giving support to the complaints of the Spanish Minister against him. But it is the opinion of a single Judge, in direct opposition to that of his colleague on the same bench, and liable to the revisal and correction of the Supreme Tribunal. It is marked with two principles, upon which it may be fairly presumed the judgment of the Supreme Court will be more in accord with that of the District. The justification of Lieut. Gregory, for taking and sending in the Palmyra, rests upon two important facts; first, the robbery committed by part of her crew, sworn to by Captain Souther, of the schooner *Coquette*, and confirmed by the oaths of her mate and two of her seamen; and, secondly, that at the time of her capture she had commenced the firing upon the *Grampus*, by a full volley from small-arms and cannon. But, as the *fact* of the robbery from the *Coquette* was not in rigorously judicial evidence before the Circuit Court, the Judge declared that, although he had no doubt the fact was true, yet, in the absence of the evidence to prove it, he must *officially* decide that it was false; and, as to the circumstance of the first fire, as the Spanish and American testimony were in contradiction to each other, he should set them both aside, and form his decision upon other principles. If, indeed, Lieut. Gregory is ultimately to be deprived of the benefit of these two facts, he will be left *judicially* without justification. But, considered with reference to the discharge of his duty as an officer of the United States, if the declaration of Captain Souther, taken upon oath, confirmed by those of his mate and two of his men, was not competent testimony upon which he was bound to act, upon what evidence could an officer of the navy ever dare to execute his instructions and the law, by rescuing or protecting from the robbers of the sea, the property of his fellow-citizens?

The robbery of the *Coquette*, by the boat's crew from the Palmyra, is assuredly sufficiently proved, for all other than judicial purposes, by the fact, which was in evidence before the District Court, that the memorandum book, sworn by John Peabody, junior, mate of the *Coquette*, to have been taken from him, together with clothing, was actually found in a bag with clothing, on board the Palmyra.

In answering Mr. Anduaga's letter of 11th October, I transmitted to him a copy of the printed decree of Judge Drayton, in which the most material facts relating to the case, and the principles applicable to it, upon which his decision was given, are set forth. Some additional facts are disclosed in a statement published by Lieut. Gregory, highly important to *this* discussion, inasmuch as they identify a portion of the crew of the Palmyra, with a gang of the Cape Antonio pirates, and with an establishment of the same character which had before been broken up by that officer.

In a long and elaborate reply to my letter, dated the 11th of December 1822, Mr. Anduaga, without contesting the fact that the *Coquette* had been robbed by the boarding crew from the Palmyra, objects to the decision of Judge Drayton, as if, by detaining for trial the individual seamen belonging to the Palmyra, charged with the robbery, it assumed a jurisdiction, disclaimed by the very acknowledgment that

the privateer was lawfully commissioned, and sanctioned the right of search, so long and so strenuously resisted by the American Government. In this reply, too, Mr. Anduaga attempts, by laborious argument to maintain, to the fullest and most unqualified extent, the right of the Spanish privateers to capture, and of the Spanish prize-courts to condemn, all vessels, of every other nation, trading with any of the ports of the Independent Patriots of South America, because, under the old colonial laws of Spain, that trade had been prohibited. And with the consistency of candor at least, he explicitly says that the decrees issued by the Spanish Commanders on the Main, under the name of blockades, were not properly so called, but were mere enforcements of the antediluvian colonial exclusions: and such were the instructions under which the Palmyra, and all the other privateers from Port Rico and Port Cavello, have been cruising. Is it surprising that the final answer of Great Britain to this pretension was an order of *reprisals*? or that, under the laws of the United States, it has brought their naval officers in conflict of actual hostility with privateers so commissioned and so instructed? The Spanish Government have for many years had notice, both from Great Britain and from the United States, that they considered as rightful the peaceful commerce of their people, with the ports in possession of the Independent Patriots. Spain herself has opened most of those, of which her forces have been able to retain or to recover the possession. The blockades proclaimed by General Morillo, in 1815, were coupled with this same absurd pretension: they were formally protested against by the Government of the United States; and wherever Morillo obtained possession, he himself immediately opened the port to foreign and neutral commerce.

Mr. Anduaga seems to have had much confidence in the conclusiveness of his reasoning, in this letter of 11th December: for, without considering the character of our institutions, which have committed to the Executive authority all communications with the Ministers of foreign powers, he permitted himself the request, that the President would communicate it to Congress; without having the apology for this indiscretion, which, on a prior occasion, he had alleged for a like request, namely, that it was in answer to letters from this Department which had been communicated to the Legislature. In the former case he was indulged, by compliance with his request. In the latter it was passed over without notice. But Mr. Anduaga was determined that his argument should come before the public, and sent a copy of it to the Havana, where it was published in the newspapers, whence it has been translated, and inserted in some of our public journals.

The British order of reprisals; the appropriation by the Cortes of 40 millions of reals for reparation, to British subjects, of damages sustained by them, in part from capture and condemnation of their property, under this absurd pretension; and the formal revocation by the King of Spain, of these unlawful blockades; will, it is presumed, supersede the necessity of a serious argument in reply to that of Mr. Anduaga upon this point. It is in vain for Spain to pretend that,

during the existence of a civil war, in which, by the universal law of nations, both parties have equal rights, with reference to foreign nations, she can enforce against all neutrals, by the seizure and condemnation of their property, the laws of colonial monopoly and prohibitions, by which they had been excluded from commercial intercourse with the colonies before the existence of the war, and when her possession and authority were alike undisputed. And if, at any stage of the war, this pretension could have been advanced with any color of reason, it was pre-eminently nugatory, on the renewal of the war, after the formal treaty between Morillo and Bolivar, and the express stipulation which it contained, that, if the war should be renewed, it should be conducted on the principles applicable to wars between independent nations, and not on the disgusting and sanguinary doctrine of suppressing rebellion.

As little foundation is there for the inference drawn by Mr. Anduaga, from the decree of the District Judge admitting the Palmyra to have been lawfully commissioned as a privateer, but detaining, for trial, the portion of her crew charged with the robbery from the *Coquette*, that it sanctions the right of search, against which the United States have so long and so constantly protested: for, in the first place, the United States have never disputed the belligerent right of search, as recognized, and universally practiced, conformably to the laws of nations. They have disputed the right of belligerents, under color of the right of search for contraband of war, to seize and carry away *men*, at the discretion of the boarding officer, without trial, and without appeal; *men*, not as contraband of war, or belonging to the enemy, but as subjects, real or pretended, of the belligerent himself, and to be used by him against his enemy. It is the fraudulent abuse of the right of search, for purposes never recognized or admitted by the laws of nations; purposes, in their practical operation, of the deepest oppression, and most crying injustice, that the United States have resisted, and will resist, and which warns them against assenting to the extension, in time of peace, of a right which experience has shewn to be liable to such gross perversion in time of war. And secondly: the Palmyra was taken for acts of *piratical* aggression and *depredation* upon a vessel of the United States, and upon the property of their citizens. Acts of *piratical* aggression and depredation may be committed by vessels having lawful commissions as privateers, and many such had been committed by the Palmyra. The act of robbery from the *Coquette* was, in every respect, *piratical*: for it was committed while the privateer was under the Venezuelan flag, and under that flag she had fired upon the *Coquette*, and brought her too. It was *piratical*, therefore, not only as depredation of the property by the boat's crew, who took it away, but as aggression under the sanction of the captain of the privateer, who was exercising belligerent rights under false colors. To combat under any other flag than that of the nation by which she is commissioned, by the laws of nations, subjects a vessel, though lawfully commissioned, to seizure and condemnation as a pirate. (See Valin's *Ordonnance de la Marine*,



vol. 2, p. 239.) And although the decree of the District Judge ordered the restitution of the vessel to her captain, because it held him to have been lawfully commissioned; neither did the law of nations require, nor would the law of the United States permit, that men, brought within the jurisdiction of the Court, and charged with piratical depredations upon citizens of the United States, should be discharged and turned over to a foreign tribunal for trial, as was demanded by Mr. Anduaga. They had been brought within the jurisdiction of the Court, not by the exercise of any right of search, but as part of the crew of a vessel which had committed piratical depredations and aggressions upon vessels and citizens of the United States. The District Court, adjudging the commission of the privateer to have been lawful, and considering the gun fired, under the Venezuelan flag, to bring the *Coquette* too, though wrongful and unwarrantable, as not amounting rigorously to that *combat*, which would have been complete piracy, discharged the captain and portion of the crew which had not been guilty of the robbery of the *Coquette*, but reserved for trial, the individuals charged with that act.

The conduct of the *Palmyra*, for months before her capture, had been notoriously and flagrantly piratical. She had, in company with another privateer, named the *Boves*, both commanded by the same Captain Pablo Slanger, fired upon the United States' schooner *Porpoise*, Captain Ramage, who abstained from returning the fire. For this act of unequivocal hostility. Captain Slanger's only apology to Captain Ramage was, that he had taken the *Porpoise* for a Patriot cruiser. (See documents with the President's message, of December, 1822, p. 65.) Numbers of neutral vessels, of different nations, had been plundered by her; and among the affidavits made to Lieut. Gregory, at St. Thomas, was one of the master and mate of a French schooner, that she had been robbed by a boat's crew, from her, of a barrel of beef, and a barrel of rice. In the letter from Captain Escurra to the Spanish Consul at Charleston, he admits the taking of these provisions, alleging that the master of the French vessel gave them to him, at his request. The affidavit of the French master and mate shews what sort of a *gift* it was, and is more coincident with all the other transactions of this privateer.

In the same letter of 11th December, Mr. Anduaga, with more ingenuity than candor, attempts at once to raise a wall of separation between the pirates of Cuba and the privateersmen of Porto Rico and Porto Cavello, and to identify the pirates, not only with all those who, at a prior period, had abused the several independent flags of South America, but with the adventurers from the United States, who, at different times, have engaged in the patriot service; and he endeavors to blend them all with the foolish expedition of last summer against Porto Rico. While indulging his propensity to complain, he revives all the long exploded and groundless charges of his predecessors, in former years, and does not scruple to insinuate that the Cuba pirates themselves are North Americans from the United States. It is easy to discern and point out the fallacy of these endeavors to blend together

things totally distinct, and to discriminate between things that are identical. It is in proof, before our tribunals, in the case of the Palmyra itself, that some of the pirates of Cuba, and of the Porto Rico privateersmen, are the same. Among the Cuba pirates that have been taken, as well by the vessels of the United States as by British cruisers, *not one* North American has been found. A number of those pirates have been executed at the Bahama Islands, and ten from one vessel at the Island of Jamaica, all Spanish subjects, and from the Spanish Islands. Not a shadow of evidence has been seen that, among the Cuba pirates, a single citizen of the United States was to be found.

As to the complaints of Mr. Anduaga's predecessors, meaning those of Don Luis de Onis, it might have been expected that we should hear no more of them, after the ratification of the Treaty of 1819. Whatever had been the merits of those complaints, full satisfaction for them all had been made by that Treaty to Spain, and was acknowledged by the ratification of the Spanish Government in October, 1820. Since that time, no complaints had been made by Mr. Anduaga's predecessors. It was reserved for him, as well to call up those phantoms from the dead, as to conjure new ones from the living. That supplies of every kind, including arms, and other implements of war, have been, in the way of lawful commerce, procured within the United States for the account of the South America Independents, and, at their expense and hazard, exported to them, is doubtless true. And Spain has enjoyed and availed herself of the same advantages.

The neutrality of the United States has, throughout this contest between Spain and South America, been cautiously and faithfully observed by their Government. But the complaints of Mr. Anduaga, as well as those of his predecessor, Mr. Onis, are founded upon erroneous views, and mistaken principles of neutrality. They assume that all *commerce*, even the most peaceful commerce of other nations, with the South Americans, is a violation of neutrality. And, while they assert this in principle, the Spanish commanders, in the few places where they yet hold authority, attempt to carry it into effect in a spirit worthy of itself. The decree of General Morales, of the 15th of September, 1822, as in perfect accord with the argument of Mr. Anduaga, on the 11th of December of the same year. The unconcerted but concurring solemn protests against the former, of the Dutch Governor of Curacao Cantzlaar, of the British Admiral Rowley, and of our own Captain Spence, was but the chorus, of all human feeling revolting at the acts of which Mr. Anduaga's reasoning was the attempted justification.

3. The next case of complaint by Mr. Anduaga, is in a letter of the 23d of February last, against Lieutenant Wilkinson, commander of the United States' schooner Spark, for capturing, off the Havanna, a vessel called the Ninfa Catalana, or the Santissima Trinidad. Nicholas Garyole, master, and sending her into Norfolk. As there are reasons for believing that in this case Lieutenant Wilkinson acted upon erroneous information, a court of inquiry has been ordered upon his conduct, the result of which will be communicated to you.

The Ninfa Catalana remains for trial at the District Court to be held in the Eastern District of Virginia, in the course of the next month. Immediately after receiving Mr. Anduaga's letter on the subject, I wrote to the Attorney of the United States for the District, instructing him to obtain, if possible, an extraordinary session of the Court, that the cause might be decided without delay; but the Judge declined appointing such session, unless all the witnesses summoned to the Court upon the case could be notified of it, which, not being practicable, the short delay till the meeting of the regular session of the Court has been unavoidable. You will assure the Spanish Government that the most impartial justice will be rendered to all the parties concerned, as well by the adjudication of the Admiralty Court as by the military inquiry on the conduct of Lieutenant Wilkinson. I ought to add, that no evidence hitherto has come to the knowledge of the Government, which has implicated the correctness of Lieutenant Wilkinson's intentions, or manifested any other motive than that of discharging his duty, and protecting the property of his fellow-citizens.

4. The capture of the Spanish schooner Carmen, alias Gallego the Third, by the United States' sloop of war Peacock, Captain Cassin, has furnished the fourth occasion for this class of Mr. Anduaga's remonstrances.

There are two declarations, or depositions, made by the captain and persons who were on board of this vessel at the time of her capture; one at Pensacola, and the other at New Orleans. The first, before the Notary, José Escaro, by Jacinto Correa, captain of the Gallega, the pilot, Ramon Echavarria, boatswain Manuel Agacio, three sailors, and Juan Martin Ferreyro, a passenger. All the witnesses, after the first, only confirm, in general and unqualified terms, *all* his statements, although many of the circumstances, asserted by him as facts, could not have been personally known to them, and others could not have been known to himself, but by hearing from some of them. The protest, for example, avers, that, when first captured by the Peacock, Captain Correa, with his steward and cook, were taken on board that vessel; and, while they were there, he represents various disorders to have been committed on board of his own vessel, by the boarding officer from the Peacock, though, by his own shewing, he was not present to witness them. His whole narrative is composed of alleged occurrences on board of three vessels, the Peacock, the Louisiana cutter, and the Gallega, and no discrimination is made between those of his own knowledge, and those which he had heard from others. The second declaration was made before Antonio Argoté Villalobos, Spanish Consul at New Orleans, only by Captain Correa and Echavarria, the mate, and gives an account of several *other* Spanish vessels, captured by the Peacock, while they were on board of that vessel as prisoners. A very inadequate reason is assigned by Captain Correa, for not having made it at the same time with the first, at Pensacola; and the whole purport of it is, to represent those *other* vessels which he had seen captured, as inoffensive unarmed vessels, and the capture of them by the Peacock as itself piratical,

Copies of the proceedings of the courts at Pensacola, and at New-Orleans, upon these cases, are expected at this Department, and the substance of them will be duly communicated to you.

In the mean time, the reports of Captain Cassin, of the Peacock, and of Captain Jackson, commander of the revenue cutter Louisiana, to the Navy Department, will give you a very different, and doubtless more correct account, of these transactions.

There is a strong reason for believing that the Gallega did actually belong to the gang of pirates, of which those pretended inoffensive and unarmed vessels certainly formed a part; that Correa and Echevarria were testifying in behalf of their accomplices; and their warm sympathy with those convicted pirates, is much more indicative of their own guilt, than of their belief in the innocence in the others.

That the *other* vessels were piratical, is no longer a subject of question or dispute. Two of them were carried by Captain Cassin to the Havana, where one of them, a schooner of nine guns, was claimed by a lady, widow of a merchant in that city, as her property, and, at her application, supported by that of the Captain General, was restored to her, upon payment of \$1000 salvage. The part of the cargo which had been saved, was sold in like manner, with the approbation of the Captain General. The vessel had been taken by the pirates but a few days before, and in retaking, and restoring her to the owner, Captain Cassin had not only rendered an important service to a Spanish subject, but taken from the pirates the means of committing more extensive and atrocious depredations.

Among the articles found on board of these vessels, were some of female apparel, rent and blood-stained; and many other traces to deeds of horror, with which these desperate wretches are known to be familiar. The pirates had, when close pursued, abandoned their vessels, and escaped to the shore. They were pursued, but not discovered. The coffee was found hidden in the woods, and, with the vessel brought into New Orleans, has been regularly condemned by the sentence of the court. And these are the characters, and this the description of people, whom Captain Correa, and his mate Echevarria, represent, in their declaration before the Spanish Consul at New Orleans, as innocent Spanish subjects, piratically plundered of their lawful property by Captain Cassin. And, upon such testimony as this, has Mr. Anduaga suffered himself to be instigated to a style of invective and reproach, not only against that officer, but against the officers of our navy generally; against the Government and people of this country, upon which, while pointing it out, and marking its contrast with the real facts of the case, I forbear all further comment.

Let it be admitted that the Catalan Nymph and the Gallega were lawful traders, and that, in capturing them as pirates, Lieutenant Wilkinson and Captain Cassin have been mistaken; that they had probable cause, sufficient for their justification, I cannot doubt, and am persuaded will, upon a full investigation of the cases, be made apparent.

In the impartial consideration of this subject, it is necessary to

advert to the *character* of these pirates, and to the circumstances which have made it so difficult to distinguish between lawfully commissioned and registered Spanish vessels and the pirates.

The first of these has been the unlawful extent given to the commissions and instructions of the privateers, avowed by the Spanish Government; an authority to take all commercial vessels bound to any of the ports in possession of the Patriots. The very assumption of this principle, and the countenance given to it by the adjudications of the Courts, was enough to kindle all the passions of lawless rapine in the maritime population of the islands. It was holding out to them the whole commerce of the neutral world as lawful prey. The next is the impunity with which those robberies have been committed in the very port of the Havana, and under the eye of the local Government. It is represented, and believed to be true, that many inhabitants of the city, merchants in respectable standing of society, are actively concerned in these transactions. That of the village of Regla, opposite the city, almost all the inhabitants are with public notoriety concerned in them. That some of the deepest criminals are known and pointed at—while the vigilance or energy of the Government is so deficient, that there is an open market for the sale of those fruits of robbery; and that threats of vengeance are heard from the most abandoned of the culprits, against all who molest them in their nefarious and bloody career.

The third is, that many of the piracies have been committed by merchants vessels, laden with cargoes. The Spanish vessels of that description, in the islands, are all armed, and when taken by the pirates, are immediately converted to their own purposes. The schooner of nine guns taken by Captain Cassin, and restored to its owner in the Havana, affords one proof of this fact; and one of the most atrocious piracies committed upon citizens of the United States, was that upon the *Ladies' Delight*, by the *Zaragosana*, a vessel regularly cleared at the Havana as a merchant vessel.

There are herewith furnished you, copies of the general instructions from the Secretary of the Navy, given to all our naval officers, successively stationed in those seas, for the protection of our commerce and for carrying into effect the laws against piracy and the slave trade, together with printed copies of those laws. They will enable you to present to the Spanish Government the most conclusive proof of the friendly sentiments towards Spain, and of the undeviating regard to her rights which have constantly animated this Government, and effectually to counteract any representations of a different character, which may be made by Mr. Anduaga.

In reflecting upon the conduct of this Minister during his residence in the United States, it has been impossible to avoid the suspicion that it has been instigated by a disposition, not more friendly to the existing liberal institutions of his own country, than to the harmonious intercourse, to which they were so well calculated to contribute, between the United States and Spain.

From the time of the re-establishment in Spain of a Constitutional Government, the sympathies of this country have been warm, ear-

nest, and unanimous in favor of her freedom and independence. The principles which she asserts and maintains are emphatically ours, and in the conflict with which she is now threatened, for supporting them, a cordial good understanding with us was as obviously the dictate of her policy, as it was the leading principle of ours. This national sentiment has not been silent or unobserved. It was embodied and expressed in the most public and solemn manner in the message to Congress at the commencement of their last session, as will be within your recollection. The conduct of the Government has been invariably conformable to it. The recognition of the South American Governments, flowing from the same principle which enlisted all our feelings in the cause of Spain, has been, in its effects, a mere formality. It has in no wise changed our actual relations, either with them or with Spain. All the European powers, even those which have hitherto most strenuously denied the recognition in form, have treated, and will treat, the South Americans as independent in fact. By his protest against the formal acknowledgment, Mr. Anduaga had fulfilled his duties to his own Government, nor has any one circumstance arisen from that event which could require of him to recur to it as a subject of difference between us and Spain again. We have not been disposed to complain of his protest, nor even of his permanent residence at a distance from the seat of Government. But the avidity with which he has seized upon every incident which could cause unpleasant feelings between the two countries; the bitterness with which his continual notes have endeavored to exasperate and envenom; the misrepresentations of others, which he has so precipitously assumed as undeniable facts; and the language in which he has vented his reproaches upon the fair and honorable characters of our naval officers, upon the Government, and even the people of this Union; and, above all, the artifice by which he suffered the absurd and ridiculous expedition of De Coudray Holstein, to obtain some paltry supplies of men and arms in this country, without giving notice of it to this Government, when they might have effectually broken it up, leaving it unknown to us, till after its inevitable failure, when he could trump it up as a premeditated hostility of ours against Spain, and a profligate project of invasion of her possessions; are indications of a temper which we can trace to no source either of friendly feeling towards our country or of patriotic devotion to his own. It has the aspect of a deliberate purpose to stir up and inflame dissensions between the United States and Spain; to produce and cherish every means of alienation and distrust between them, with ultimate views to the counteraction of these differences, upon the internal administration and Government of his own nation.

It is hoped that he will, in no event, be permitted to return hither; and, in the full and just explanations which you will now be enabled to give upon every complaint exhibited by him while here, the Spanish Government will be satisfied with the justice, and convinced of the friendly disposition towards Spain, which have governed all our conduct. With the same spirit, and the just expectation that it will be met with a reciprocal return, you will represent to them the

claim of all the citizens of the United States, whose vessels and other property have been captured by the privateers from Porto Rico, and Porto Cavello, and condemned by the Courts of those places, for supposed breaches of the pretended blockade, or for *trading* with the South American Independents. Restitution or indemnity is due to them all; and is immediately due by the Spanish Government, inasmuch as these injuries, having been sanctioned by the local authorities, military and civil, the sufferers in most of the cases can have no resort to the individuals by whom the captures were made. A list of all the cases which have come yet to the knowledge of this Department, is now enclosed. There are probably many others. An agent will be shortly sent to collect, at the respective places, the evidence in all the cases not already known, and to obtain, as far as may be practicable, restitution by the local authorities. Whatever may be restored by them will diminish by so much the amount of claim upon the Spanish Government; which will be the more indisputable, as they have already admitted the justice, and made provision for the satisfaction, of claims of British subjects, which sprung from the same cause.

Of the formal revocation of the Spanish Government of the nominal blockade, the Governor of Porto Rico has given express notice to Commodore Porter. As a consequence of this, it is hoped that no more commissions for privateers will be issued. The revocation did, indeed, come at a critical time: for it cannot be too strongly impressed upon the Spanish Government, that all the causes of complaint, both by Spanish subjects against the navy officers of the United States, and by the citizens of the United States, with which you are now charged, proceeded directly, or as a consequence, from those spurious blockades. They were in violation of the laws of nations. They were in conflict with the law of Congress for protecting the commerce of the United States. It was impossible that ships of war of the United States, with commanders instructed to carry that law into execution, and Spanish privateers, commissioned and instructed to carry into effect the atrocious decree of General Morales, should meet and fulfil their respective instructions without hostile collision. The decree of Gen. Morales constituted all those Spanish subjects who acted under it, in a state of war *de facto* with all neutral nations; and, on the sea, it was a war of extermination against all neutral commerce. It is to the responsibility of her own officers, therefore, that Spain must look for indemnity to the wrongs endured by her own subjects, as necessary consequences of their official acts, as well as for the source of her obligation to indemnify all the innocent sufferers under them, who are entitled to the protection of other nations. You will take an immediate opportunity, after your reception, to urge upon the Spanish Government the absolute necessity of a more vigorous and energetic exercise of the local authorities in the Island of Cuba, for the suppression of the piracies, by which it is yet infested. Their professions of co-operation with the naval force of the United States to this object have not been followed up by corresponding action. As long since as last May, Captain Biddle, then commanding the Macedonian

frigate, represented to the Captain General Mahy, the necessity that would frequently arise of pursuing them from their boats to the shores on the desert and uninhabited parts of the Island, and requested permission to land for such purpose, which was explicitly refused. Mr. Forsyth has been instructed to renew the demand of this permission, to the Spanish Government itself. And, as there are cases in which the necessity will constitute the right of anticipating that permission, Commodore Porter has been instructed accordingly. From a recent debate in the British Parliament it appears that similar instructions have been given to the commanders of the British squadrons despatched for the protection of the commerce of that nation, and that, when notified to the Spanish Government, although at first resisted by them, they finally obtained their acquiescence. These circumstances will serve for answer to one of the most aggravated complaints of Mr. Anduaga against Captain Cassin. That officer did land, and although not successful in overtaking the pirates themselves, he did break up one of the deposits of their lawless plunder, burnt several of their boats, and took from them two of their armed vessels. Mr. Anduaga sees in all this nothing but a *violation of His Catholic Majesty's territory*; a sentiment on such an occasion, which would be more suitable for an accessory to the pirates, than for the officer of a Government deeply and earnestly intent upon their suppression.

From the highly esteemed and honorable character of General Vives, who has, probably, before this, arrived at the Havana, as Governor and Captain General of the Island, we hope for more effectual co-operation to this most desirable event. There has been, according to every account, a laxity and remissness on that subject in the Executive authority of that Port, which we hope will no longer be seen. The boldness and notoriety with which crimes of such desperate die are committed in the very face of authority, is, of itself, irrefragable proof of its own imbecility or weakness. Spain must be sensible, that she is answerable to the world for the suppression of crimes committed within her jurisdiction, and of which the people of other nations are almost exclusively the victims. The pirates have generally, though not universally, abstained from annoying Spanish subjects, and from the robbery of Spanish property. It is surely within the competency of the Government of Cuba to put down that open market of the pirates, which has so long been denounced at the Havana. It appears, that masters of American vessels which had been robbed, have seen their own property openly exposed to sale in that city; but have been dissuaded from reclaiming it by the warning that it would expose them to the danger of assassination. One instance, at least, has occurred, of unpunished murder of a citizen of the United States, for the indiscreet expression of his expectation that the arrival of Commodore Porter's squadron would secure more respect to the persons and property of American citizens; and other cases have happened, of outrages upon citizens of the United States, in which the protecting power of the Government has been deficient, at least in promptitude and vigor.



To the irritation between the people of the two nations, produced by the consequences of the abominable decree of General Morales, must be attributed that base and dastardly spirit of revenge which recently actuated a Spanish subaltern officer, at Porto Rico, by which Lieutenant Cocke lost his life. Copies of the correspondence between Commodore Porter and the Governor of Porto Rico, on that occasion, are among the enclosed papers. They will shew that the act of firing upon the Fox was utterly wanton and inexcusable; and the President desires that you would expressly demand that the officer, by whom it was ordered, should be brought to trial and punishment for having ordered it.

There are several subjects connected with the execution of the treaty of 22d February, 1819, to which it may be proper to advert as being likely to claim your attention. On the delivery of the two Provinces of the Floridas to the United States, by virtue of stipulations of that treaty, a question arose whether, under the term *fortifications*, which were to be delivered over with them, was included the artillery, without which they could not, with propriety, bear the name. By another article of the treaty, it was agreed that the United States should furnish *transports* for the conveyance of the Spanish officers and troops to the Havana. Under this engagement, the Spanish officers understood it was *implied* that the *provisions* necessary for the passage should also be furnished at the expense of the United States. In this liberal construction of that article, this Government acquiesced, insisting, however, that, on that same principle, that provisions for the passage would be understood as implied in an engagement to supply the passage itself, the ordnance which constituted the essential part of the fortifications, must be considered as embraced by the word, and that the United States were entitled to claim its delivery with the buildings which, without it, would substantially be no fortifications at all. The Spanish officers at Pensacola and St. Augustin objected to this liberal construction of the article which imposed an obligation upon Spain, while they insisted upon it with regard to the article in her favor. It was therefore agreed, both at Pensacola and St. Augustin, that the artillery in the forts should be left there, receipts for it being given by General Jackson and Colonel Butler, leaving the question, as to the property in them, to the determination of the two Governments. A correspondence ensued between this Department and the Spanish Legation here, and between the Ministers of Foreign Affairs and our Legation at Madrid, the last document of which is a note of 3d September, 1822, from Don Evaristo San Miguel to Mr. Forsyth, from whom, as well as from Mr. Anduaga, separate copies of it have been transmitted to this Department. This note announces his Catholic Majesty's final determination to abide by the *strict* construction of both the articles in question, on the acknowledged ground that the value of the cannon is more than the cost of the provisions. It therefore proposes that the cannon should be restored to Spain, and offers to repay the expense incurred by the United States for the provisions. Or it offers to receive pro-

posals for the purchase, by the United States, of the cannon, and, if necessary, to sell them, at a fair appraisment. by competent persons; to be appointed by the two Governments; and, after deducting the amount paid by the United States for the provisions, to receive the balance.

In the compacts between nations. as in the bargains of individuals, the most essential requisites are candor and fair dealing. The comparative *value* of the cannon in the forts, and of the provisions for the passage of the Spanish troops, formed no part of the considerations upon which the artillery was claimed by the United States, together with the walls of which they formed the defence. It was to the *principle* alone that our attention was turned. The officers of Spain, under a stipulation for *passage*, claimed a supply of provisions. Acquiescing in that liberal construction of our engagement which would warrant them in the claim, we thought it, in fairness and reciprocity, applicable to another article, the benefit of which would enure to the United States. In the course of this discussion, no distinction has been shewn, on the part of Spain, that could justify a different rule of construction for the two articles. In both cases, the *incident* was so essential to the main object of the stipulation, as to be inseparable from its existence and accomplishment. The passage, without provisions, was impracticable. The walls, without their artillery, were no fortifications. If, in one case, the implication was just, it was indispensable in the other. But we do not wish to press the controversy further. You are authorized to signify to the Spanish Government the acceptance of the proposal contained in Mr. San Miguel's note, and that, on the repayment, by the Spanish Government. of the money paid by the United States for provisions for the Spanish officers and troops, from the Floridas to the Havana, the ordnance left behind, and receipted for, by General Jackson and Col. Butler, will be delivered up to the order of the Governor of Cuba, or to any officer duly authorized to receive it.

There is in the note of Mr. San Miguel a complaint, somewhat gratuitous, that the American Government had not, in the first instance, adjusted this question with the Spanish Minister at Washington, or afterwards prevented the compromise between the Commissioners of the two Governments, at the delivery of the Provinces. The Government of the United States was not informed that the Spanish Minister here had any authority to discuss the mode of execution, with regard to the delivery of the Territory. It was not to him, but to the Governor and Captain General of the Island of Cuba, that the royal order for the delivery was addressed; nor was it supposed that he had, or could have, any instructions, authorizing him to settle any question of construction which might arise in the details of the execution. That a question might arise, both with regard to the provisions, and to the artillery, was foreseen, but there was no necessity for anticipating it, by a reference to the Spanish Minister, when it might not arise at all, and who, if it should, had no power to settle it. The suggestion of it, as a question *to him*, could, in all probability, tend only to *delay* the delivery itself of the

Floridas: for, if his views of the construction of the article concerning the fortifications should differ from those of this Government, he could only refer it to his own, and, in the meantime, the delivery of the country must be postponed, or accepted by the United States, subject to the construction of the Spanish Envoy. The American Government had no motive for starting questions which might be turned to purposes of delay. It was sufficient for them to proceed upon principles fair and equitable in themselves, and to foresee questions of construction only so far as to preclude the admission of one rule, when its operation would be against the United States, and of another, when its effect would be in their favor. When the question between the Commissioners had arisen, it was not more in the power of this Government to prevent the compromise upon which they agreed, than it was in that of Spain; a reference of it, prior to the delivery, might have been made to Madrid, in little more time than to Washington; and the intimation of Mr. San Miguel, that the unfortunate disputes in which the Ex-Governors of St. Augustine and Pensacola were involved, and which issued in occurrences personally unpleasant to them, originated in this compromise concerning the artillery, is founded upon erroneous impressions. Those incidents, much and sincerely lamented by us, arose from the non-delivery, deliberate, concerted, and systematic, by the late Captain General Mahy, and by both the Governors of St. Augustine and Pensacola, of the *Archives* and *Documents* which they were required by an express stipulation of the Treaty, and an explicit order from the King of Spain, to deliver up. The Governor of Cuba, after informing Col. Forbes, who was commissioned to receive that portion of those Archives and Documents which were at the Havana, that twenty boxes of documents had been sent there from Pensacola, relating to West Florida, and that all those relating to East Florida were at St. Augustine; and, after detaining Col. Forbes at the Havana nearly six weeks, in the daily protracted expectation of delivering them, finally obliged him, with exhausted patience, to depart without the former, and with an explicit assurance, that he had instructed the Governor of St. Augustine to deliver the latter. Yet, the Governor of St. Augustine refused to deliver them, on the allegation of doubts, whether the engagement of the Treaty extended to the delivery of *any* public Documents or Archives, relating to individual property. This extraordinary effort to withhold, and to carry away all the records of land titles, of both the Provinces, has been the fruitful source of all those subsequent misunderstandings and painful occurrences to which Mr. San Miguel's note alludes, and it commenced on the part of the Governor of Cuba, long before any question relating to the delivery of the artillery had occurred.

Mr. Thomas Randall is now about to proceed to the Havana, charged with a new commission to demand and receive the archives and documents yet remaining there, and of which, as Mr. Forsyth was informed, a new royal order has been expedited to command the delivery. There are also many at Madrid, in the office of the Ultra-marine Department, which Mr. Forsyth has taken measures, at

different times, to obtain, hitherto without success. You will learn the state of this concern upon your arrival, and as occasions may present themselves, will give it all the attention it may require.

By the fourth article of the treaty of 22d February, 1819, provision was made for the appointment of commissioners and surveyors to run the boundary line between the United States and the then adjoining Spanish provinces, from the mouth of the Sabine River to the South Sea. They were to meet at Natchitoches, within one year from the ratification of the treaty; but the appointment of the Spanish commissioner and surveyor, though repeatedly urged by Mr. Forsyth upon the Spanish Government, was not made in seasonable time, and the revolution in Mexico having soon after demolished the Spanish dominion in that country, it became doubtful whether that article of the treaty could be carried into execution.

There was some hesitation in Congress, and different votes between the two Houses, with regard to making the appropriation for that purpose. The appropriation was, however, made, and the appointment of the commissioner and surveyor on the part of the United States was made known to Mr. Anduaga, and also, through Mr. Forsyth, to the Spanish Government, with notice that we were ready to proceed in the measures agreed upon for carrying the article into execution.

No further notice of the subject has been taken by the Spanish Government, nor have we been informed who were the commissioner and surveyor appointed by them. It will not be necessary for you to revive the subject by any communication to that Government, unless it should be brought up on their part. The new Government of Mexico, since the revolution there, has made known its assent to the boundary, as marked out by the treaty, and, it is probable that Spain will, henceforth, have no interest in the settlement of the line. It may form a subject of further arrangement between us and our immediate neighbors hereafter. Of the other subjects of discussion with Spain, which may require your official notice, you will be informed by Mr. John James Appleton, remaining there charged with the affairs of the Legation, after the departure of Mr. Forsyth, and by the archives of the Legation which he will deliver over to you. The laws relating to commerce, since the restoration of the Cortes, have been rather restrictive than favorable to the relations between the United States and Spain. You will be specially attentive to all negotiations, whether commercial or political, in which Spain may be concerned, during the continuance of your mission; transmit to this Department two copies of every treaty, printed by authority, immediately after its publication, and copies by duplicate of all conventions, treaties, separate articles, or other diplomatic communications of which you may acquire the knowledge, and which you can obtain without expense or charge.

An object of considerable importance will be, to obtain the admission of *Consuls* from the United States in the ports of the colonies; specially, in the islands of Cuba and of Porto Rico. It was incidental to the old colonial system of Spain, which excluded all commerce of

foreign nations with their colonies, to admit in their ports no foreign consuls. The special duties and functions of those officers, consisting in the protection of the commerce, navigation, and seamen, of their respective countries, in the ports where they reside, it was a natural and necessary consequence of the exclusive colonial principle, that, where no commerce was allowed to foreign nations, there could be no duties for a foreign consul to perform, and no occasion for the acknowledgment of such an officer. But, when the colonial ports were opened to foreign trade, all the *reasons* which recommend, and all the necessities which urge, the appointment and admission of foreign consuls to reside in them, apply as forcibly to those ports as to any others. The commerce between the United States and the Havana is of greater amount and value than with all the Spanish dominions in Europe. The number of American vessels which enter there, is, annually, several hundreds. Their seamen, from the unhealthiness of the climate, are peculiarly exposed to need there the assistance which it is a primary purpose of the consular office to supply; nor is there any conceivable motive for continuing to maintain the pretension to exclude them, and to refuse the formal acknowledgment of consuls. Informal commercial agents have, in many of the ports, been allowed to reside, and partially to perform the consular duties; but, as they are thus left much dependent on the will of the local government, and subject to control at its pleasure, they have neither the dignity nor authority which properly belongs to the office. There has already been much correspondence between Mr. Forsyth and the Spanish Department of Foreign Affairs on this subject. You will follow it up, as there may be opportunity, till a definitive answer shall be obtained.

A letter from the Spanish Chargé d'Affaires, Mr. Salmon, dated the 15th of April, has been received at this Department, enclosing a copy of one from Mr. Anduaga to Mr. R. W. Meade, of 16th October, 1822, relating to his claim, pending before the Commissioners under the Florida treaty. Translations of these papers, and a copy of my answer to Mr. Salmon's letter, are herewith enclosed. The claim of Mr. Meade, as presented to the Commissioners, was palpably not, and could not be, embraced by the treaty, as [by] an order for payment of it by the Spanish Department of Finance, Spain was undoubtedly bound to the payment of it in full. And so she was for the payment of all the certificates of her public debt, which were purchasable in the market at thirty or forty per cent. of their nominal value. All the claims provided for by the treaty were unsettled claims, the proper subjects of compromise, and the avowed and unequivocal principle of the treaty was to make such compromise. This was well known to Mr. Meade as well as to the Spanish Government. The first report of the Spanish Junta of four counsellors, in favor of Mr. Meade's claims, was made on the 30th of September, 1819, *after* the termination of the period when the treaty should have been ratified by Spain. The certificate delivered to Mr. Meade in May, 1820, directed that the sum which had been found due to him, should be paid

out of the funds of the Royal Finance Department, with interest. The treaty, though not ratified by Spain, was then public in Europe and America. It had twice been communicated by the President of the United States to Congress: first in February, 1819, immediately after it was signed, and again in December of the same year, when it was published with the documents at the commencement of that session. It was well known to Mr. Meade, that it did not provide for his claim, thus liquidated and acknowledged. If he, then, expected that it should ever be chargeable upon the United States, that was the time for him to have so declared to the Spanish Government. The nature of his claim was entirely changed by the liquidation, but it made, and could make, no corresponding change in the stipulation of the *treaty*. It was not for an order on the funds of the Royal Finance Department of Spain, for near half a million of dollars, with interest from May, 1820, that the United States had undertaken to provide; and the real effect of the liquidation and certificate was to take the case entirely out of the treaty.

That Mr. Meade was fully sensible of this, is proved by his subsequent memorial to the President of the United States, soliciting, *on their part*, a conditional ratification, either acknowledging his claim as finally liquidated by Spain, to be paid in full, or excepting, specifically, the renunciation which included his claim, as it had existed when the treaty was signed, or the claim itself by name as afterwards settled. His whole memorial, indeed, is an unanswerable argument to prove, that his *settled* claim was *not* included in the treaty, nor was it possible that it should be. The treaty was signed in February, 1819, and professed to provide for none but unsettled claims, prescribing the manner in which they should all be settled alike. Mr. Meade's claim was liquidated in May, 1820, the treaty being then as if it had never been made. It is a strange use to make of the warm interest and ardent solicitation of the American minister in Spain, in Mr. Meade's favor, to obtain a settlement by Spain of his claims, and of the friendly congratulation of the American Secretary of State, after it had been obtained, *when the treaty had no existence*, to contend that these manifestations of kindness to him, bound the United States to payment in full of his demand upon Spain, if the treaty should ever be ratified. It is very evident, that the liquidation of Mr. Meade's claims in Spain, was made on principles, which, however fair and laudable, as between him and the Spanish Government, would not be proper for the liquidation to be made by the American commissioners conformably to the treaty. The principle of the treaty is a compromise of unadjusted claims. The principle of the liquidation was payment in full, with profuse allowances for interest and damages; these, very suitably for Spain to make in acknowledgment of great services of the claimant to her, were in no wise proper for the United States, being under no such obligations to assume, nor could they assume them without wrong to other claimants, more entitled to favor from *them*, though less from Spain, than Mr. Meade. In that liquidation it is abundantly shewn, by Mr. Meade himself, that the Spanish tri-

lunals intended to discharge a debt of Spanish gratitude as well as of justice; to remunerate services, as well as to fulfil engagements. It is doubtful whether any others of the claimants, under the treaty, will obtain any allowance for *interest*, even simple interest, upon the clearest and most inveterate of their demands. Mr. Meade's liquidated claim calls for interest upon interest on a debt of half a million of dollars; compound interest accruing after the treaty was signed, and accumulating by the act of Spain herself, in withholding the stipulated ratification of the treaty. Other claimants besides Mr. Meade, had been wrongfully and far more rigorously imprisoned by authority of the Spanish Government. Should they be paid at the rate of nearly forty thousand dollars a year for such detention, the five millions of dollars allotted to the settlement of the claims, five times doubled, would scarcely suffice for their satisfaction. To complete the demonstration that Mr. Meade's liquidated claim was not included in the treaty, let it be supposed that the order, which, in May, 1820, he received *upon the funds of the Royal Finance Department*, had been immediately paid, and that the Spanish Government had afterwards ratified the treaty as it did, Mr. Meade would assuredly then have had no claim under the treaty; and as little could the Spanish Government have claimed repayment by the United States of the money paid to Mr. Meade.

And why was not the order upon the royal finance department immediately paid? Mr. Meade himself has answered, that it was owing to the embarrassments of the new revolution. He petitioned the Cortes for immediate payment, and to designate the mode of payment. But he could obtain no definitive resolution from the Cortes, till the 5th of October, 1820, the day they decided in favor of ratifying the Florida Treaty. Upon which occasion, says Mr. Meade, "they ordered that my memorial should be united with the papers relative to the treaty, and submitted to the King, in order to have it *ascertained* whether the American Government had consented to the introduction of *my individual claim* into the negotiations of the treaty, and, if so, that the American Government had distinctly assumed upon itself the payment of my claim, and had wholly exonerated Spain from it: but, if it should be found that my case had not been taken into view by the negotiators, *and was not distinctly understood as embraced* in the treaty stipulations, they, in that case, decreed the immediate payment of the debt by the Spanish Government. Upon this reference from the Cortes, the Spanish Minister of State pronounced an unequivocal opinion that the debt had been *distinctly and specifically* assumed by the United States in exoneration of Spain; *or would be so* upon the exchange of the ratifications." Here we see that the Cortes, when advising to the ratification of the treaty before them, considered the assumption by the United States of Mr. Meade's claim, as entirely depending on the question whether it had *individually, distinctly, and specifically*, been treated for in the negotiation between Mr. Onís and the American Secretary of State. This the Cortes did not know, with the treaty and all the documents of the negotiation before them. As

little did the Minister to whom they referred it, know; for he only pronounced an opinion that the debt had been *distinctly* and *specifically* assumed by the United States, in exoneration of Spain, or *would be so upon the exchange of the ratifications.*

Mr. Meade proceeds in his memorial to say, "the opinion of the Minister was founded (as I was informed from *high authority*) upon facts *said* to have been notorious to the negotiators of the treaty, and verified, *as it was said*, by the official communications of Mr. Onis to the Spanish Government, to wit, that my claim had been introduced by name into the discussion between Mr. Adams and Mr. Onis, who finally agreed, in their *verbal conferences*, that it should be assumed and paid by the United States; that Mr. Onis proposed the insertion of my name, and a specific stipulation to that effect in the treaty; but that Mr. Adams thought it unnecessary to do so, though he agreed to the insertion of a clause intended to comprehend my case, without naming it, and to exonerate Spain from the debt, with the understanding, nevertheless, that it was to be specifically assumed and paid by the United States." I shall not inquire how it happened that the Cortes, with this fable *said* to have been verified by the official communications of Mr. Onis to the Spanish Government, before them, *could* have referred it to the King, to ascertain whether Mr. Meade's claim had been assumed by the United States or not; nor how the Minister of State, to whom it was again referred, should have been so uncertain with regard to the fact, as merely to give an *opinion* that the claim had been specifically assumed by the United States, or *would be so, upon the exchange of the ratifications.* Neither shall I ask how it happened that Mr. Meade, at Madrid, in October, 1820, with his claim liquidated and acknowledged, and demanding immediate payment, when put off with these uncertainties of the Cortes and the Minister, should have contented himself with this information from *high authority*, of facts *said* to have been notorious, and said to have been verified by official communications of Mr. Onis to his Government, without demanding, as, under those circumstances he had the unquestionable right, and the deepest interest to do, authenticated copies of these official communications of Mr. Onis, to produce them before the American Government: How it happened that for this *only* document which could have given Mr. Meade the shadow of a claim upon the American Government for specific satisfaction of his liquidated claim, he took at Madrid this information from *high authority* of things *said to have been said*, and then come to the United States, and called upon their President and Senate to palm upon the people of this Union the payment of half a million of dollars, with interest, to him, or to annul, by a conditional ratification, the Florida treaty, with this hearsay of hearsay, for the only color of his demand. That it was from beginning to end a fable, is certain. Mr. Meade's claim, far from being specifically provided for by name, was never even mentioned by Mr. Onis during the negotiation of the treaty. No individual claim was ever mentioned, nor would the American Government have stipulated, for the benefit of any claimant, a favor which could not be extended equally to all the rest.



But the facility with which Mr. Meade received upon trust this information from *high authority* of an official document which would have been the only admissible voucher for his new claim upon the United States, is not the only surprizing part of this allegation in his memorial to the President. He says that the Spanish Minister of State pronounced an unequivocal opinion that the debt had been distinctly and specifically assumed by the United States, in exoneration of Spain, *or would be so upon the exchange of the ratifications*. That it had not been, is now shown beyond all power of reply, nor was it at the exchange of the ratifications. Mr. Meade, after failing in the attempt to stay the ratification of the United States, did apply to the Spanish Minister then here, General Vives, to make some such specific reference to his individual claim, which General Vives explicitly declined. There was, indeed, no pretence upon which it could have been made, and the tale which Mr. Meade had received from *high authority*, appears to be no other than a device to elude his importunities for payment, and only proves the consciousness of necessity for resorting to fiction to give a show of coloring to Mr. Meade's liquidated claim, as chargeable to the United States.

It may be said that, if the claims of Mr. Meade, as existing in February, 1819, are admitted to have been included within the provisions of the treaty, the United States cannot justly avail themselves of the liquidation, subsequently effected at the instances of their own Minister, to recharge upon Spain the payment of the whole sums from which she would have been exonerated, but for the intermediate liquidation between the signature and the final ratification of the treaty. Neither is this the desire of the American Government. The Commissioners, whose doubt whether Mr. Meade was receivable at all as a claimant under the treaty, arose, first, from the certainty that his claim, as presented by himself, was not included in the treaty; and, secondly, from his own argument, that it was of a character that the United States and Spain had no *right* to dispose of it by negotiation, on application to the Secretary of State, were informed that the intention of the treaty on the part of the United States, had been to include within its provisions all *unsettled* and *unliquidated* claims of citizens of the United States upon Spain, for which the interposition of the Government of the United States had been *solicited* by the claimants themselves, until the *signature* of the treaty. Mr. Meade's claim, at the time of the signature of the treaty, was of that description, and the Commissioners have received him as a claimant under the treaty.

The subsequent liquidation and acknowledgment of the Spanish tribunals, gave Mr. Meade a new entirely distinct claim upon Spain. It was an order upon the Spanish treasury for a specific sum of money, with interest, from May, 1820. The effect of this transaction was to take the claims of Mr. Meade entirely out of the treaty; and Spain, by the subsequent ratification of the treaty, without noticing, in any manner, this claim, or its liquidation, gave the United States some reason for insisting, were they so disposed, that no provision, for any part of it, had been made by the treaty at all.

But the rule of equity applicable to this case, and by which substantial justice may be done to all parties, is this. Mr Meade's claims, as existing, and exhibited before the signature of the treaty, are included in its provisions. Their *amount* and *validity* must be proved to the commissioners, conformably to the provisions of the treaty. The allowance or rejection of every item in them must be determined on principles applied by the Commissioners to all other claims, of a similar description, before them. The sum finally awarded to him, must be subject to all the other provisions of the treaty. To charge the United States in the exact proportion stipulated by the treaty, and to suffer deduction from their admitted account, in common with all the other claims, as they may be finally admitted. So far have they been assumed by the United States, and so far has Spain been exonerated from them. For the balance of the sum which Mr. Meade may thus receive from the United States, to equalize, in amount, the specific sum, with interest, from May, 1820, awarded him by the Spanish liquidation, his claim remains unimpaired *upon the Spanish treasury*. It was never assumed, or renounced, by the United States—it was never cancelled by Spain. For the decisions of her own tribunals, subsequent to the signature of the treaty, Spain alone must be responsible. The treaty alone must be the standard to which the decisions of the American Commissioners and the obligations of the United States must conform.

By the 15th article of the treaty of 27th October, 1795, it was stipulated, that, in times of war, the flag should cover the property, and free ships make free goods. By the 12th article of the treaty of 22d February, 1819, it is agreed that this shall be so understood, with respect to those powers who recognize this principle, but, if either of the two contracting parties shall be at war with a third, and the other neutral, the flag of the neutral shall cover the property of enemies, whose government acknowledge this principle, and not of others.

In the impending war between Spain and France, you may, perhaps, have occasion to require the exact observance of this engagement. In all the treaties between the United States and France, the principle that free ships make free goods is established and recognized. It is presumed that it will yet be recognized by France, and it is hoped there will be no cause to complain of its infringement by Spain.

A resolution of the House of Representatives, at the last session of Congress, requests the President to enter upon, and to prosecute, from time to time, such negotiations with the several maritime powers of Europe and America, as he may deem expedient for the effectual abolition of the African Slave Trade, and its ultimate denunciation, as piracy, under the law of nations, by the consent of the civilized world. You will take an early opportunity to make known this disposition to the Spanish Government, communicating to them copies of the 4th and 5th sections of the act of 3d March, 1819, which declares this traffic piratical, when pursued by citizens of the United States; and you will express the willingness of the American Government to enter

into negotiations for the purpose of declaring it so by the common consent of nations.”

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(No. 35.)

*Extract of a letter, No. 4, from Mr. Nelson to Mr. Adams, dated*

MADRID, 15th January, 1824.

“I herewith enclose another note which I addressed to the Spanish Government on the 10th instant. In this I have presented the views of our Government on two of the important subjects with which I was entrusted—the piracies on our commerce in the West Indies, with a requisition on the Spanish Government for immediate orders to their provincial officers to suppress these outrages; and the offence of the Spanish officer by whose order the life of Lt. Cocke was sacrificed, with a demand upon his Catholic Majesty’s Government for a satisfactory atonement for this unparalleled aggression. In a few days I shall present to this government another note, embracing the remaining interesting topics of my instructions, with a demand for the appropriate redress for the respective wrongs sustained by our citizens.”

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(No. 35.—a.)

*Mr. Nelson to the Count of Ofalia.*

MADRID, January 10th, 1824.

The undersigned, the Minister Plenipotentiary of the United States of America, has the honor, through His Excellency, to assure His Catholic Majesty of the unfeigned desire of the President of the United States to preserve inviolate the friendly relations subsisting between the two Governments. This harmony, sometimes menaced with interruption by the great convulsions which the world has witnessed at the termination of the last century, and in the progress of the present, has fortunately never experienced a total rupture. Events have occurred, which seemed to threaten a collision between nations long united in the strongest bonds of friendship; measures, deemed necessary to maintain the security of some who were engaged in the conflict of arms, or to preserve the neutrality of others who were so fortunate as to escape its ravages, may have sometimes, in their tendency, borne with severe pressure on those against whom they were not intended to operate injuriously; a sensibility, bordering on a degree of jealousy, may have been excited by erroneous views of the policy and measures of the American Government; and the councils of Spain may have received impressions calculated to produce suspicions incompatible with the frank and mutual confidence necessary to sustain the cordial intercourse of friendly nation. The policy of the American Government, founded in justice and truth, has never led to the

adoption of any measures towards a foreign nation, which it would not cheerfully acquiesce in, if, under similar circumstances, adopted towards itself; nor has it ever asked an act of justice from a foreign power, which it would not have equally conceded to the demand of such foreign power, in a parallel condition, appealing for justice to the American Government. This onward course of candid and disinterested policy, ever leads it to expect a reciprocal return from the foreign powers to whom it appeals, at any time, for the fulfilment of those obligations which are imposed by the principles of justice and reciprocity. These are expected with confidence from his Catholic Majesty; and, whilst, on the one hand, the undersigned is authorized to give full assurance of the earnest wish of the American Government to cherish and perpetuate its friendly relations with Spain, on the other, he is directed to ask of the Government of Spain the fulfilment of those obligations which a sense of honor and of justice, and a reciprocal desire to preserve inviolate the friendly and harmonious intercourse between the two countries, will impose upon the Government of his Catholic Majesty. Actuated by feelings congenial to those which he is instructed to avow and manifest by his Government towards the Government of Spain, the undersigned begs to call the attention of his Excellency to cases of aggravated injury and wrong, which the citizens of the United States have suffered from the subjects of his Catholic Majesty, and in some instances, from those who had been distinguished by his royal commissions.

It had been heretofore made known to his Catholic Majesty's Government by his predecessor, that, in the great agitations which, of late years, have been experienced in a portion of the Western World, swarms of pirates, issuing from the Island of Cuba, had infested the West Indian seas, desolating, wherever they could encounter it, the peaceful commerce of the neighboring nations. In their ruthless fury after rapine and destruction, sweeping from that ocean the peaceful and defenceless navigators, they have not spared even the subjects of Spain herself. The nations exercising commerce in these seas, have been compelled to arm for its protection, and to send their ships into that region to defend their citizens, in their persons and their property, from these insatiate plunderers. The United States, in common with others, have been forced to send naval armaments into these regions, and have always, in a spirit of harmony and friendship, given ample notice to the local authorities of the Spanish Islands of the object and destination of these equipments. Time after time have they called upon the Spanish authorities in Cuba to suppress these hordes of banditti. Often has the assurance been given, that the local authorities would, and had, taken all the necessary measures to suppress them. Yet, in defiance of these repeated assurances, the ocean teemed with these freebooters, and so fearless and undaunted were these scourges of the ocean, that the city of Havanna itself has witnessed piracies committed at the verge of its harbor. Armament after armament has been equipped and despatched from the United States, instructed to co-operate with the local authorities in their

suppression; and always with the fullest and most positive instructions to pay the utmost respect to the rights and interests of Spain. Her rights have always been respected by the commanders of the American squadrons; nor has a single instance, it is believed by the American Government, occurred, wherein there has been a wanton violation of that respect which, as a friendly nation, the United States owed to the rights and interests of Spain. But, although such has been the scrupulous regard, which the United States have, on all occasions, manifested to these obligations, which their friendly relations to Spain imposed, they have not found any relief to their commerce against these piracies, either from the reiterated assurance given by the Spanish local authorities of their determination to suppress, or of their adoption of the "necessary measures to defend their territorial jurisdiction, and for the apprehension of every description of outlaw." On the contrary, the American Government has had too much reason to believe that, however the local authorities might be inclined to apprehend these outlaws, yet, from want of power, or from some other cause, adequate measures were not adopted for their suppression: but that these sea robbers, acquiring boldness from the inaction of the Government of the Captain General, not only displayed their successful cruisers, laden with their spoils, in the port of the Havana, but fearlessly exposed to sale, in the streets of the city, in the very teeth of the government, unawed and unrestrained, the unhallowed fruits of their piracies and plunder. Instances have occurred in which the American citizen has beheld exposed to sale, in open market, in the streets of Havana, the property plundered from him by these ferocious miscreants, from reclaiming which, he has been restrained by the admonition of others, warned that he would find no protection from the Government, and that he would only draw down upon his own head the infernal malice of the secret assassin. Nor has a case been wanting, in which one of the citizens of the United States, excited by this shameless disregard of all laws, human and divine, having declared that, on the arrival of the American naval commander, who was then expected in those seas, more respect would be shown to the rights of persons and property, met, as the reward of his temerity, the deadly stroke of the poniard from the midnight murderer. These pirates have their establishments and places of asylum in the bays and harbors on the coast of the uninhabited parts of the Island of Cuba. Thence they sally forth in quest of plunder, in vessels adapted to a shoal water navigation, bringing ruin and desolation on the defenceless commercial vessels they can find, and if, perchance, they encounter a foe, competent, by his armament, to subdue them, they fly for refuge to these shoals and bays, whither the pursuer cannot come, through fear of being wrecked if rashly he rush on. Or if, perchance, the commander of some lighter vessel pursue them to the margin of the shore, they instantly abandon their vessel, and, concealing themselves in places of retreat, previously marked out, and prepared for this purpose, they elude their pursuers, and escape by the sacrifice of some mean, worthless vessel, and save their persons from seizure and detection.

The American government beheld, with regret, this unfortunate state of things in that region; anxious to treat with due respect the rights and interests of Spain; bound to protect their citizens in their persons and their property; wishing to believe that the local authorities were thus inactive only because they were unable to repress these pirates; and never, for a moment, entertaining any other opinion of His Catholic Majesty's Government, than that it deplored, equally with the American Government, the calamities to which the commerce of these seas was subjected, by the diabolical passions of the most abandoned and nefarious ruffians of the human race; has felt most sensibly the delicacy and difficulty of its situation, when summoned, by a sense of duty, to adopt measures of energy to ensure protection to those who were entitled to demand it from their Government. Believing that, in the adoption of such measures as the necessity of the case imposed, they would equally consult the interest and honor of Spain, as of the whole civilized world, in destroying a horde of monsters, who were leagued and combined against the fair and legitimate trade of all nations using these seas, they gave instructions to the predecessor of the undersigned to make known to His Catholic Majesty's Government, that it would be indispensable for the American cruisers, in pursuing these banditti to their places of shelter and retreat, in the uninhabited parts of the Island, to land some portion of their crews in those places in which the power of the local authorities was not exercised to suppress them, to execute the purpose of arresting, and bringing to justice, these freebooters and marauders. Conscious of the purity of their designs, and convinced that Spain would equally benefit with all the world in the extirpation of this stock of bucaniers, they did not hesitate to instruct their naval commanders, in case of indispensable necessity, and of that only, to land in these desert and uninhabited places, for the sole purpose of pursuing and arresting the pirates; and, as soon as that service was performed, to embark immediately in their vessels again, withdrawing from the territory of Spain.

Presuming that, in a case of such imperious necessity, when the rights and interests of humanity were so deeply involved, as in the extirpation of these outlaw freebooters; in a case where the object and design of the American Government were so open and notorious; and, with great propriety it may be added, were so laudable, as being aimed at the suppression of those, who, by common consent, are denominated the enemies of all mankind; in a case where, as no contempt of the authority of Spain was, or could be intended, so none could be inferred; the American Government hoped and believed that Spain would sanction a measure fraught with so much benefit to all the maritime nations of the earth, although it might not so strictly accord with those little observances of scrupulous punctilio, which nations so fastidiously exact in their intercourse with each other. The measure was free from all design of wounding the feelings, or of offering contempt to Spain. It was called for by the irresistible necessity of the case, and was scarcely less than justified, by the omis-

sion of the local authorities, through weakness, or through want of inclination, to adopt measures for their suppression, which had been often promised, and too rarely fulfilled. The scrupulous delicacy of the American Government towards the rights and interests of Spain, are displayed in the orders to their naval commanders, of which copies accompany this note. In their efforts to attain the desirable object of expelling from the ocean these lawless bucaniers, the United States have had to deplore the loss of one of their most gallant and distinguished naval officers, Lieutenant Allen, who fell by the hands of one of these pirates, whilst he was nobly attempting to subdue a nest of them, in arms against the honest commerce of the civilized world. The undersigned is directed, by the President of the United States, to urge upon the Government of Spain the absolute necessity of its ordering the local authorities of the Island of Cuba to adopt the most energetic and efficacious measures for controlling and suppressing these pirates, and of asking that these authorities may be instructed to use every possible means of co-operation with the naval armaments of the United States, which may be sent into the West Indian seas for the purpose of suppressing an evil, under which the American commerce has too long suffered.

Connected with the facts detailed in the foregoing part of this note, is another case, of a most malignant character, on which I am directed to ask of His Catholic Majesty's Government a prompt and vigorous redress, of an unparralleled injury, which the American Government has sustained, at the hands of an officer having the commission of His Catholic Majesty. The United States, under the increasing urgency of affording protection against the pirates in the West Indian seas, have sent out their naval armaments to afford this protection. But, even with these exertions, they have not been able to afford entire security to their commerce. The local authorities, with an indifference to the sufferings of commerce, and an incredible tolerance to this system of plundering, have, almost uniformly, refused all co-operation in this just and holy object. They have denied to the fleets and naval armaments of the United States those courtesies and civilities which common hospitality would enjoin, even in the case of entire strangers, but which, to a nation in the strictest bond of friendship, and engaged in the holy and beneficent object of extirpating a nest of pirates, all laws, human and divine, would imperiously command them to administer—they have denied those facilities and accommodations to the American navy, whilst they have permitted them to be enjoyed by the lawless freebooters of the ocean. Nor have markets, open and shameless, been wanting, in the most conspicuous places in the Islands, for the sale of the plunder piratically obtained by them. When the American Government has sent their ships into these seas, the most rigid orders have been given to their commanders to respect, in the fullest possible extent, the rights of Spain. When, in the beginning of the last year, a necessity arose, from the continued and increased depredations on the commerce of the American merchants, to augment the United States' naval armament

in these seas, the same scrupulous regard to the rights of Spain was observed. Due notice was given to the Spanish authorities, both in the mother country, and in the Islands, of the object and design of this equipment. The proceedings of the American Legislature, open and unconcealed, announced and proclaimed to the whole world, through the medium of the press, the object and destination of this augmented armament. And the officer commanding this squadron, Commodore Porter, on his arrival in the West Indies, gave notice to the Spanish authorities of Porto Rico, when he approached that Island, of the object and design of the expedition under his command. He found, on his arrival near St. John's, in that Island, the ships of war of England, enjoying freely and uninterruptedly, the facilities and accommodations of that port. Before attempting to enter with his ships, he sent into the port of St. John's one of the smallest vessels of the squadron, whose commander bore a letter to the Governor of the Island, assuring him of the friendly object of his visit to these seas. This vessel was permitted to enter and anchor in the port, and the officer to land and hold intercourse with the commandant, in the Fort, in the absence of the Governor, who was out of town; whilst the Commodore, with the residue of his fleet, lay off a few miles distant from the port, but in full view of the Forts, with the American flag displayed at the r mast head, giving assurance of the real character of the fleet, which had recently arrived. The officer despatched to bear the letter to the Governor of the Island, had with him a copy of that letter, which he was authorized to show to the second in command, should the case occur of the temporary absence of the Governor. This copy was shown, and its contents made known, to the second in command, the Governor being absent. (A copy of it is herewith furnished.) The American Commodore, finding the vessel delayed in port some days, and much longer than he had expected, still forbearing to attempt to enter with his fleet, despatched another of the smaller vessels of his squadron, to bear an order to the officer commanding the vessel which lay at anchor in the port. Lieutenant Cocke, a young and gallant officer, commanding this latter vessel, in obedience of the orders of his commander, sailing into port, unsuspecting of hostility from the forts, under pressure of a strong breeze and a very high sea, was treacherously and perfidiously fired upon from the fort, by order of the second in command in the port of St. John's. The wind blowing with great violence, and the sea breaking most dangerously around the vessel, Lieut. Cocke was unable to hear if any thing was said, or to comprehend, by the firing of the gun, what was the object of the officer commanding in the Fort. His vessel, driven on by the force of the wind, and the irresistible power of the waves, pursued her course towards the harbor, when the firing was repeatedly reiterated, until this gallant officer, in the act of endeavoring, by hailing, to learn the object of the fort, was almost literally torn in pieces by a ball from a forty-two pounder, discharged from this fort. This vessel, thus treacherously and wantonly fired upon, carried three guns, and was of little more than forty tons; the



fort mounted nearly five hundred guns, from thirty-two to forty-two pounders. This vessel was then compelled, at the hazard of its own destruction, and the loss of the whole crew, to anchor in the billows of a sea running continually over her. Her boat was despatched with a Midshipman and crew, at whom a large gun was pointed as soon as he reached the shore, and he was ordered not to move, on pain of being fired on; and, as if to add insult to injury, he was then put under guard, conducted, like a criminal, and delivered to the officer of the Fort, who had so wantonly murdered his gallant commander. In this case of the murder of Lieut. Cocke, the undersigned is directed by the President of the United States to demand of His Catholic Majesty's Government that the officer, by whose order this act was done, should be brought to trial, and punished for a deed so flagrant, wanton, and unprovoked. On this occasion, the undersigned rests assured, that the indignant feelings of His Catholic Majesty will correspond with those of the President of the United States, and that justice will not be delayed in an instance which so imperiously requires it.

The undersigned tenders to His Excellency the Count of Ofalia, holding ad interim the office of First Secretary of State and of the Despatch, his distinguished consideration, and subscribes himself

His Excellency's very humble and obedient servant,

HUGH NELSON.

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(No. 36.)

*Extract of a letter from Mr. Nelson, (No. 35,) to Mr. Adams, dated, Madrid, July 15th, 1824.*

“The change in the Cabinet of H. C. M. in the removal of the Count of Ofalia from his office of First Secretary of State, occurred two days since, and is disclosed in the annexed document, dated the 13th instant, which announced this alteration. This place is filled “ad interim” by Salazar, the Minister of Marine; but the permanent appointment is conferred on Zea Bermudez, the Minister of Spain to England, who is, at present, not in the Kingdom. This constant changing the minister at the head of their foreign affairs, is extremely embarrassing to the intercourse which other nations are constrained to hold with this Government. It will be fortunate for Spain, if foreigners, alone, feel the evil consequences of this perpetual vacillation. The Count of Ofalia is not only deprived of his office, but is banished from Madrid, and ordered to retire to his estates in Grenada. This removal is regretted by most of the diplomatic corps, who found the Count ready in his duties, accessible in his deportment, and easy and polite in his intercourse with them.”

“I have now had the honor to present my respects to four of these different gentlemen in about six months. It produces a necessity of beginning “ab ovo” with each new secretary, on all matters of consequence, on which one may have discoursed, and corresponded re-

peatedly, and in which the hope may have been indulged, that an approach was making to the consummation of some desired object."

(No. 37.)

*Extracts of a letter (No. 39,) from Mr. Nelson, to the Secretary of State, dated Madrid, September 11th, 1824.*

"In pursuance of my intention, expressed in a late despatch, I have prepared and presented to the Spanish Government, a note, concisely recapitulating the communications on the most important subject of my correspondence with it. These are, the murder of Lieutenant Cocke, the piracies by the vessels from Cuba, and the captures by the privateers from Porto Rico and Porto Cabello. The tone of this note is somewhat higher than the original communications on these subjects. To this I was led by the last newspapers received from the Department, in one of which was contained the report of the Committee of Foreign Relations on Piracies. Long convinced that we should derive more advantage from communicating with this Government in a higher pitch than we had used in the previous applications, I seized with pleasure the style of this document, which I was willing to consider as an Index of the national feeling, as of that of the Government, and notified the secretary, that respectful delicacy for his Catholic Majesty, and the expectation that the remonstrances of the American Minister at Madrid would meet the prompt attention of this Government, alone restrained the recommendation of a system of reprisals. That the legislative councils would again shortly convene, when it might be anticipated that these measures would speedily follow, unless prevented by the measures adopted by this Government. In order to prevent all apology for delay in taking up this communication, it was translated into Spanish by Mr. Appleton, and the translation furnished with the original. A copy of this note is enclosed.

I send also a copy of another note, which I have found it necessary to present to this Government, on account of their conduct to American vessels coming into Spanish ports.

On the 4th of July, the King issued a royal order, requiring that all foreign vessels entering his ports with goods in transit for foreign countries, should be compelled to give bond, with good security, for producing the certificate of the Spanish Consul residing at the foreign port to which they were represented to be destined, that they were actually delivered at such port. This royal order had never been published in the papers of Madrid, but had been sent to the sea ports, and there communicated to foreign consuls by the local authorities. My first information of it was derived from our consul, Mr. Sterling, at Barcelona. Nothing occurring under it for some time, I had not made it a subject of communication, until, within a few days, I received information from the same consul, that the authorities of Tarragona had proceeded to enforce it against an American vessel in

that port, where the vice consul had obtained the release of the vessel, by executing bond with the captain for the fulfilment of this condition. I instantly addressed a remonstrance to the Secretary of State, urging the repeal of this order, and the cancelling of the bonds which should be executed under it.

This remonstrance was succeeded by another application, of which a copy is also enclosed, produced by an incident of a most unpleasant nature. A man, asserting that he is an American citizen, was captured with a band of insurgents, who made an unsuccessful assault in August, on the town of Almeria on the Mediterranean coast. They approached in an armed brig the batteries of the place, and attempted to force its surrender by a cannonade; they were repulsed in this onset. Thirty of the crew afterwards landed, and being joined by a number of the inhabitants of the neighborhood, they attempted to storm the place by attacking it at several points. They were baffled in these, and most of those who landed from the brig were either killed or captured. Among the latter was this unfortunate man. Under a royal decree, issued immediately after the affair of Tariffa, the sentence of death was promptly pronounced against all these prisoners. The Vice Consul, appointed at that place by Mr. Barrell, of Malaga, learning that a seaman claiming to be an American, was included in this sentence, promptly interfered, and, by his exertions, suspended, as to this man, for a time, the execution which was forthwith carried into effect against the others, including foreigners as well as Spaniards. Mr. Spencer, the Vice Consul, made his report to Mr. Barrell, who directly transmitted the documents to me. I lost no time in laying these, accompanied by my note, before the Secretary of State. They were presented last night at eleven o'clock by Mr. Appleton, who explained the subject fully, and urged the interference of the proper authority immediately to suspend all proceedings, until the pleasure of the King could be understood in this case. This man, very young, had only been twenty-four hours in the Bay of Gibraltar, when he was inveigled into this expedition by the means of intoxication, and the flattering promises held out to him. To the solicitation for his pardon, I have added, in case of failure on this point, the assertion of the just claim to a fair trial under the right secured by the stipulations of the treaty of 1795."

*"September 13th.*

"With a promptitude very unusual in this Government, and which does them honor on this occasion, we last night received the enclosed answer to the last application. The King has consented to spare the life of the man, and orders that he shall be sent out of this kingdom, under a prohibition never to return. I also enclose my note, written in acknowledgment of this concession of His Majesty; in which I have ventured, without instructions, to state the estimate which the American Government would place on an act of this character."

"It is said here, that all the agents of France, who have been sent

out to the New Governments of South America, have gone with the sanction of the Government of Spain, and that they are furnished with credentials from this Government, to be used by them if occasions should make it necessary. From what we have learned, I think we are justified in believing that the English Government have resolved on some new measure, for the protection of their commerce in the West Indies. I am not certain if it extend to making of reprisals, but the Chargé d'Affaires who is left here since Sir William A'Court departed, acknowledged, that measures had been adopted for the effectual suppression of the pirates, from whom their commerce had suffered greatly."

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( No. 57—a. )

*Mr. Nelson to Mr. Salazar.*

MADRID, September 7, 1824.

The undersigned, the Minister Plenipotentiary of the United States of America, begs leave to call the attention of H. C. M. Government to certain subjects of the deepest interest to the United States, on which the applications heretofore made by the undersigned, have failed to rouse the attention, or to obtain the slightest mark of regard from H. C. Majesty. The undersigned, from delicacy to the Sovereign of Spain, whom he found, on his presentation, occupied in the re-establishment of the affairs of the kingdom, just emerging from the confusion incident to a state of war, has forborne to urge, with the vehement pressure which his instructions from his government would seem to require, the decisions of Spain on the several reclamations which were long time since presented by the undersigned to H. C. Majesty's Secretary of State.

On the 10th day of January last, the undersigned had the honor to address to the Secretary of State of H. C. M. a reclamation on the part of his Government in behalf of its citizens injured by the illegal and piratical conduct of the subjects of H. C. M. in the West Indian seas. It was represented, that property to a very large amount had been captured, and sent into the ports of H. C. Majesty, in his American possessions, in many instances against all law and justice, by pirates; who, after committing the most atrocious and nefarious deeds, sought and found shelter and asylum, in the islands, and often in the most conspicuous ports and harbors, with the fruits and profits of their inhuman outrages. In many instances, these atrocities were perpetrated not less in defiance of right and justice, by persons pretending to act under the color of authority, but whose authority has never been justified; and which, if justified, would never sanction these transactions, marked by a character of piracy and rapacity which no commission could justify. In the cases of robberies committed by the Spanish vessels acting as pirates, the American property thus plundered, was often carried into the ports of Cuba, and especially of the Ha-

vana, and there, in the most open and daring manner, exposed to sale, in the view of the local authorities, unrestrained and unchecked by their slightest interference. American citizens have seen their property, thus violently and feloniously taken from them, offered for sale in open market, without the protection of the local government in the assertion of their rights, and deterred from the vindication of their just claims, by the fullest conviction that they would find no support in the Government of the Island, but would meet, in all probability, as the requital of their temerity, the fiend-like vengeance of the murderous assassin. In other instances, where the property of the American citizen has been captured under color of authority in the vessel making the capture, the conduct of the captors has been scarcely less flagrant than that practised by the pirates. Oftentimes has the booty, found in the American vessel, been partitioned among the plunderers without going into port, and distributed, without legal adjudication, by these lawless robbers; and when carried, occasionally, into port, a secret, unknown, and unfrequented port has been resorted to, where law and justice were disregarded, and where every means of obtaining right was denied to the parties concerned—unapprized of the proceedings,—and not permitted to avail themselves of the customary means of vindication. In the prosecution of these felonious practices, American citizens have been seized and thrown into prison, and there cruelly detained, often in a horrible state of suffering, almost without the indispensable necessaries for human subsistence. In some instances, their property, which the merciless captors had spared, and sent into port, has been wasted and embezzled to such an extent, that, when the mock trial to which it had been subjected, had terminated, even in their favor, the subject of controversy could no longer be found. Thus, has every species of abuse of the rights of person and of property of American citizens been practised in these regions. The local authorities have been appealed to in vain; the Government of Spain has been appealed to, as yet without effect; the reclamations are again renewed; the patience of the American Government is tried to its fullest extent of sufferance; and the day is probably not very distant, when the necessity of warding off these reiterated and aggravated injuries, and the obligation of doing justice to its citizens, may compel the Government of the United States to resort to measures of a more efficient character for prevention of injury, and the redress of wrongs. This interesting subject has already claimed the attention of the legislative councils of the nation. They have hitherto forborne to recommend the adoption of measures of reprisals, from a desire to manifest their friendly dispositions to H. C. Majesty, and from the hope, that the reclamations, long since presented by their Minister near this Court, would speedily receive attention, and be followed with his Majesty's answer and determination on these important questions. At no very distant period their councils will, in the regular course of their proceedings, be again assembled at the seat of the National Government, when, doubtless, this subject will again be revived by them, and such measures as the existing evils, and the disregard on the part

of His Majesty, of the demands hitherto presented by the American Minister, will form with them, irrefragable arguments for the adoption of a more efficient system of energetic policy. The undersigned has presented, in different appeals, to the Government of his H. C. Majesty, the various subjects of complaint which have arisen from the misconduct of His Majesty's officers and subjects in his ultra-marine possessions. One of the most prominent and aggravated, was the sacrifice of a gallant officer of the American navy, whilst peaceably entering the port of St. John's, in Porto Rico: who was most wantonly and treacherously murdered by a gun from the fort, fired by the order of the officer at that time in command, in the absence of the Governor. In this instance, the American Government demands that this subject shall be rigorously investigated, and an adequate punishment inflicted on the officer by whose command this outrage was perpetrated.

An appeal has likewise been made to His Catholic Majesty's Government on the subject of the multiplied piracies which have been committed on the peaceable American commerce, in the West Indian seas by vessels equipped and sailing from the ports of His Majesty's possessions in these regions, on which reiterated complaints have been made to the local authorities without effect; and on which the interference of His Majesty has been required, to compel those authorities to fulfil their duty in this regard, by effectual measures for the suppression of the pirates, and by co-operating with the squadron of the United States, sent into these seas for the extirpation of this scourge to the honest and lawful commerce of the whole civilized world.

Another demand upon His Majesty's Government has been made for indemnification against the enormous losses sustained by the American citizens, from the captures made by vessels pretending to act under commissions issued by agents alleging to be authorized by His Catholic Majesty.

The authority to issue these commissions has never been proved; the right to issue them, on the principles avowed of a paper blockade, without adequate force; of an interdiction of all neutral commerce with the ports of the Spanish main, on the alleged ancient rights of Spain over that country; has always been resisted and protested against by all neutral nations, and especially by the United States, and relinquished by His Majesty's officers in that region, and finally renounced or abandoned by His Majesty himself, in his decree of December last, opening the commerce of these countries to all the world. On this subject the undersigned, in obedience to instructions of his Government, demanded that a just indemnification should be made to all the American citizens who had suffered any loss in consequence of these illegal acts, done under color and pretence of His Majesty's authority, but really perpetrated in violation of all laws and justice, whose obligation is acknowledged by all the civilized nations of the world. The release of all citizens, and surrender of all American property, whose condition had not been changed, but was unjustifiably and illegally detained, was also required.

The undersigned begs leave to present to His Excellency this rapid and cursory sketch of the most important subjects of complaint, which he was instructed to press upon the Government of His Catholic Majesty. He begs to refer His Excellency to the different notes presented by him, dated the 10th and 23d of January, and the 3d of February last, in which these grievances are more minutely and specially detailed, and where the appropriate and specific redress demanded, is more explicitly and at large stated, than the undersigned has considered it necessary at this time to recapitulate.

The undersigned begs leave to urge upon His Excellency the necessity of an early answer to these applications, that his Government may learn how far the spirit and disposition of an harmonious intercourse is reciprocated towards the United States by His Catholic Majesty; that they may be confirmed in that opinion which they have ever entertained, that an appeal to His Majesty's honor is only necessary to obtain the redress of grievances inflicted without his sanction and authority; and that the United States may be relieved from the painful necessity of deciding that an appeal to a more energetic policy, totally at variance with their ardent desire to preserve harmony, and avoid collision, is, at length, become absolutely and indispensably necessary.

The undersigned tenders to His Excellency his most distinguished consideration, and subscribes himself,

His Excellency's very humble and obedient servant,

HUGH NELSON.

To His Exc'y D. LOUIS MARIA DE SALAZAR,

*First Secretary of State and of the Despatch, ad interim.*

( No. 38. )

*Extract of a letter from Mr. Nelson, No. 42, to Mr. Adams, dated Madrid, Oct. 4th, 1824.*

“ I waited upon Mr. Zea, yesterday, and had an opportunity of conversing with him on that subject, as also upon others of importance. He assured me that, in a very few days, I should receive an answer on the subject of this debt, which he did not doubt would be perfectly satisfactory. That there was every disposition on the part of his Majesty's Government to afford the aid requested, and that every thing that could be done would be complied with to effectuate the object. I then stated to him the subject of the claims of American citizens for spoliations on their commerce in the West Indies, by vessels pretending to act under commissions which had never been legalized; and which, if legalized, would never sanction the piratical acts which they had perpetrated, under pretext of these commissions. He assured me that he would, forthwith, undertake the examination of the correspondence on this subject. He would not content himself with assuring me that he would devote the first leisure he should have to this object, but that he would enter upon it promptly, and

avail himself of every occasion to obtain an acquaintance with the whole matter. I urged upon him the necessity of enabling me to communicate, immediately, to the American Government, the views of Spain on this interesting subject; that the attention of Congress would doubtless be turned to it at a very early period of their session; that it had been reviewed by them at their late session, and they had forborne to adopt some measure of energy for the relief of the American commerce, simply from deference to their wish to maintain the friendly relations with Spain inviolate, and from a hope that the appeals made by the American Minister at Madrid to His Catholic Majesty's Government, would meet with a proper attention, and produce the desired effect of a friendly adjustment of all existing differences. I assured him of the earnest desire of the Executive of the United States to maintain unimpaired the friendship between the two Governments, but that I would not assure him how far the influence of this feeling might operate with the Legislature to control the adoption of energetic measures, even to the extent of making reprisals on the commerce of Spain, unless Spain should manifest a disposition to pay a due regard to the reclamations which had been presented upon this subject. I stated that the Count of Ofalia had assured me, that the new Minister to the United States should be instructed and empowered to treat upon this matter at Washington, as being most convenient to the place where these transactions had occurred, and more convenient for obtaining the necessary testimony. He then remarked on the death of the Chevalier Isnardi, and said that he had not yet had leisure to designate a fit person for this mission; but that this would soon be done. He was informed that Congress would meet in the beginning of December, before which the American Government ought to receive the answer of Spain to the communications made on this subject. He reciprocated the anxious wish of His Majesty to preserve the harmony between Spain and the United States, and that he, personally, felt the influence of the same consideration."

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( No. 39. )

*Extract of a letter from Mr. Nelson, to the Secretary of State, No. 45,  
dated*

MADRID Oct. 12th, 1824.

"The despatch, No. 39, has presented the correspondence with this Government, in the case of John B. Pechut, an American citizen, taken with the band of insurgents at Almeria, in the kingdom of Grenada. From that you will have learned that the king had consented to his pardon, on condition of his being sent out of his dominions, never to return to them. Whilst I was in the daily expectation of receiving intelligence of the happy release of Pechut, under this act of clemency, I had the mortification to receive communications



from Mr. Barrel, and his Vice Consul Mr. Spencer, acting at Almeria, and who was so prompt and active as to obtain from the local authorities the suspension of Pechut's execution, giving the melancholy news of the execution of this unfortunate man, under a positive order from the Captain General of Grenada—this same ruffian Quesada, who had been sent from Madrid for conniving at the assassination of some of the French soldiers. I learn that the military government of Almeria, on the application of Mr. Spencer, claiming this man as an American citizen, and informing the Governor that the case would be sent to the American Minister, to be presented to H. M. had suspended the sentence until the pleasure of the king should be known. The Military Governor made a report to the Captain General Quesada, stating the fact that the case had been suspended on the claim made of the American citizen, and that an appeal was in progress to H. M. for his directions in reference to the prisoner. Yet, notwithstanding this full knowledge, Quesada immediately replied to the military Governor's report with a peremptory order for the prompt execution of Pechut. The subordinate officer conceived himself bound to obey the command of the superior, and the execution was effected upon this poor man on the 10th of September. Instantly on receiving the information of the facts, I addressed a note to the Secretary of State, couched in the terms which my feelings dictated, and as strong as the proper decorum would justify. The Secretary replied immediately, asking information in regard to dates. To his note I replied forthwith, much in the spirit of the first communication. The copies of this correspondence accompany this despatch. I have nothing further from this Government on this subject.

I also send a copy of a note addressed to the Secretary, dated of this day, written with the design of obtaining some answer in relation to our demands on the subject of the spoliations on our commerce in the West Indies, in the hope of getting something in time to enable the President to show to Congress the state of this question between the two Governments. It must come very soon to be in time. I have talked and written continually, on this subject, without effect. If this terror of reprisals on their commerce, do not bring forth something, I shall despair of vanquishing Spanish apathy, and shall think the energy of the Committee of Foreign Relations will not be excessive—even if it should extend to the recommendation of doing justice to our citizens, by something more effectual than negotiation.

If I might presume to advise, I should, at least, think it prudent to forbear for a reasonable portion of the session; giving Spain time to answer, so as not to lose the occasion of acting upon this subject during the session. Some allowance must be made for the perpetual change in their councils, and some respect may be due to Count Ofalia's promise given, to authorize the new Minister, who should go to the United States, to treat upon this important question."

( No. 39—a. )

*Mr. Nelson to Mr. Bermudez.*

MADRID, October 6, 1824.

The undersigned, the Minister Plenipotentiary of the United States of America, has the honor to communicate to His Excellency, that he has, this day, experienced the deepest mortification, in learning from the American Consul at Malaga, and the Vice Consul at Almeria, that the inexorable rigor of the Captain General of Grenada has cruelly defeated the benignant clemency of His Majesty, which, on the application of the undersigned, had been graciously extended to an American citizen, John Baptist Pechut, seduced, through ignorance, into a combination with others, charged with an attempt to disturb the repose of His Majesty's dominions. This unfortunate young man, just arrived in the port of Gibraltar, in less than 24 hours after his reaching this port, was beguile by the artifice and seductions of subtle and insidious men, to engage in an enterprize, the object of which, as disclosed to him, was, in no manner, levelled against the safety or power of His Catholic Majesty. The undersigned had the honor to address to His Excellency, the then acting Secretary of State, on the 9th ultimo, his appeal to His Majesty's clemency for the exercise of his most glorious and divine-like attribute of mercy to the unfortunate; this appeal was promptly answered, by the assurance that His Majesty, actuated by that clemency, which it is His Majesty's highest delight to practice on all just occasions, and by a wish to manifest his feelings of respect and friendship to the representative of the American Government, had granted a pardon to this unfortunate, deluded young man; and by the communication of the information, that an order to that effect had been, immediately, transmitted to His Majesty's Secretary for the Department of War, with instructions that Pechut should be placed at the disposal of the undersigned; to be sent out of His Majesty's dominions, and to incur the sentence of perpetual banishment from them. The undersigned, under the influence of those feelings, which this act of clemency was calculated to inspire, lost no time in making to His Majesty the proper return of the acknowledgments of his Government and of his own personal sensibility for this distinguished mark of liberality. The undersigned immediately communicated to his Government this act of clemency on the part of His Catholic Majesty, as a new evidence of His Majesty's disposition to cherish and fortify the harmony and friendship happily subsisting between the two Governments. His Excellency cannot fail to appreciate the indignant sensibility with which the undersigned must receive the report from the American Consul, that the unrelenting severity of one of His Majesty's officers has baffled the gracious purposes of his royal clemency, and set at naught the sacred obligations

of existing treaties, which, at least, pretend to assure to the citizens, or subjects of either, in the jurisdiction of the other, a *just* and fair trial for alleged offences or crimes against their laws. But the undersigned must experience still deeper regret, when, in the execution of his duties to his own Government, it shall devolve upon him to announce to it, that the highly lauded humanity of His Majesty has been counteracted by the infuriated vengeance of an arbitrary Governor of a province—and that His Majesty's design of according to the Representative of a friendly power, a new evidence of his sincere wish to cultivate their good will, has been converted into an instrument of discord and irritation by a blind surrender to the most vindictive feelings.

The undersigned feels constrained to ask of His Excellency, that the officer, whose conduct has produced this unhappy disappointment, may be called upon to answer for this unjustifiable act; and that, henceforward, should any American citizen be unhappily placed in a situation subjecting him to be proceeded against judicially in Spain, to demand that the rights, secured to them by treaty, shall be most scrupulously administered, in all cases, by the tribunals of His Catholic Majesty.

The undersigned has the honor to tender to His Excellency the consideration of his most distinguished regard, and to subscribe himself,

His Excellency's very humble and obed't serv't.

HUGH NELSON.

His Excellency Don FRANCISCO ZEA BERMUDEZ,

*His Catholic Majesty's First Secretary of State, &c.*

( No. 39.—b. )

*Don Francisco de Zea Bermudez to Mr. Nelson.*

[TRANSLATION.]

SIR: The sad communication which you were pleased to make to me, in your note of 6th current, which came to my hands at half past 8 o'clock this morning, referring to the pardon which the King, my august master, with his natural clemency, judged good to grant to John Pechut, in whose favor, as an American subject, you were pleased to interest yourself, not having had the desired fulfilment, has caused to me the most lively grief. I am certain that His Majesty, to whom I shall hasten to give an account of this unfortunate occurrence, will learn, with the most sincere sorrow, that his beneficent disposition, intended to prove more and more his friendly sentiments to your Government, has not been realized. Anticipating his royal orders, I have not lost a moment in communicating the proper orders, that all the circumstances relative to the trial and sentence of the unfortu-

nate Pechut, may be investigated with scrupulous exactness, including the fixed times of the despatch and arrival of the royal orders, communicated in this business, which were sent from this chief office, under my charge, without the least delay, on the 11th of last month, as I had the honor of informing you on the same day. You need not doubt, sir, that the known rectitude of His Majesty will severely punish any fault, omission, or disobedience to his royal commands, if any such have taken place in this affair; and, in the whole case, I shall consider it as a duty, sir, to inform you, circumstantially, of the result of the investigations ordered, and of the consequent resolution of His Majesty, for your information and satisfaction. In the meantime, and to elucidate farther this painful event, I request you will have the goodness to transmit to me, with due precision and punctuality, all the data relative to it, which may have come to your knowledge; resting assured that, on my part, I shall omit no means within the compass of my power, to evince to you the distinguished value which His Majesty's Government sets upon their friendly relations with yours, and of their constant exactitude in observing justice and treaties.

I embrace, with pleasure, this occasion of renewing to you, sir, the sentiments of my most distinguished consideration. God preserve you many years.

FRANCISCO DE ZEA BERMUDEZ.

SAN LORENZO, 8th Oct. 1824.

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( No. 39.—c. )

*Mr. Nelson to Mr. Bermudez.*

MADRID, October 9, 1824.

The undersigned, the Minister Plenipotentiary of the United States of America, has the honor to acknowledge the receipt of His Excellency's note of the 8th instant, which was received this morning, and to state, in reply, that he is informed, by letters from the vice consul at Almeria, that, on the 25th August last, on his urgent solicitation, the military governor and junta of Almeria suspended the execution of Pechut, who had been previously, with others, made a prisoner; and that they gave an assurance to the American vice consul, on his representation, that this subject would be immediately laid before His Majesty's government; that his sentence should be respited until His Majesty's pleasure should be known. The American vice consul proceeded to correspond with the consul at Malaga, who transmitted the documents to the American minister at Madrid, who, immediately on their receipt, addressed the Secretary of State on the subject, who promptly returned the assurance of His Majesty's pardon. The further correspondence of the American vice con-

sul at Almeria, informs the undersigned that the military governor of that place, on the 29th of August last, suspending the execution of Pechut, on the vice consul's representations of the case being in a course to be submitted to His Majesty's pleasure, presented the subject to His Excellency the Captain General of the kingdom of Grenada, stating the reasons which induced the suspension of Pechut's execution, being those which the American vice consul offered at the time that the declaration of the said Pechut was made before the military governor of Almeria, and the junta associated with him. This declaration accompanied the first note of the undersigned to the Secretary of State on this subject. The Captain General of the kingdom of Grenada, in defiance of the knowledge conveyed to him by the military governor of Almeria, that this case of an American citizen, claimed by the American representative, was in course of submission to His Catholic Majesty, on the 6th of September proceeded to order the execution of Pechut, and enjoined upon the authorities implicit obedience to this command. The military governor of Almeria, having received this peremptory command from his superior, who was fully informed of all the facts of the case, and especially made to know, that an appeal to his Majesty's clemency was in progress, for the pardon of this unfortunate young man, conceived himself bound to execute this sanguinary order; nor could the remonstrances, protests, and appeals, of the American vice consul, produce any effect in mitigating or suspending this inexorable sentence, which the undersigned learns was cruelly fulfilled on the evening of the 10th of September. The undersigned presents this case to His Excellency, not as one of complaint against the Captain General for disregard of His Majesty's command, which would be an affair entirely between His Majesty and the officer, with which a foreign government could have no right to interfere; but as a complaint against this officer for a total disregard of the rights of a foreign power, secured by the sacred obligations of a treaty, which the military governor and junta of Almeria, not less zealous in the service of His Majesty, than the Captain General himself, deemed of sufficient force to induce them, in the first instance, to suspend Pechut's execution: As a complaint against the Captain General of Grenada, for presuming to decide a question between a foreign government and His Catholic Majesty, wresting the authority from the higher tribunals, by a decision not to be reversed from the unhappy condition of the unfortunate victim, outraging the rights of a foreign nation, presumptuously anticipating the judgment of His Majesty, and defeating the humane and benevolent designs of His Majesty, in extending his clemency to a deluded and ignorant victim, uninfluenced by any sentiment of hostility to the sacred rights of His Catholic Majesty; a complaint that this officer remained inexorable to an appeal which aroused the sympathies of the tribunal which first investigated the case, and which, at the first blush, met in the clemency of His Majesty, a sympathising sentiment sufficient to produce an immediate order for the pardon of the unfortunate Pechut. The undersigned closes this with

feelings of the deepest regret, and laments that an officer in his Majesty's service, high and distinguished by his confidence, should be found manifesting an overweening zeal, by the perpetration of acts from which humanity revolts, and from which the benignant clemency of His Majesty's heart must recoil with the deepest abhorrence. The undersigned begs to repeat his earnest appeal to His Majesty to cause the subsisting treaties between Spain and the United States to be fulfilled, should any cases occur wherein American citizens may be so unfortunate as to be involved in criminal prosecutions in Spain, and to renew to his Excellency the tender, &c. &c.

HUGH NELSON.

To His Excellency DON FRANCISCO DE ZEA BERMUDEZ,  
*H. C. M. First Secretary of State and of Despatch.*

(No. 39—d.)

*Mr. Nelson to the Secretary of State and of Despatch.*

MADRID, October 12, 1824.

The undersigned, the Minister Plenipotentiary of the United States of America, salutes His Excellency, and asks to call his attention to the topics on which they conversed, when last the undersigned had the honor of an interview with His Excellency; but especially to that which concerned the claims of the American citizens, for spoliations on their commerce in the West India seas, committed by Spanish cruisers, in violation of the laws of nations, and the peaceful relations subsisting between Spain and the United States. The undersigned is led to recall this subject to His Excellency's recollection, from an apprehension that the great pressure of important business, at this time occupying His Excellency's attention, may have diminished the force of his recollection, in regard to communications made in a personal conference, and not in writing; and from an earnest desire to prevent, by all means, the chance of the friendly and harmonious relations between the two countries being brought into the hazard of collision. The undersigned had the honor to state, that this subject had been presented to His Majesty's Government on the 10th of January last; that it had been continually recalled since, both in writing and in conversation, at intervals, to its recollection; that it had been presented to the Secretary of State "ad interim," who had preceded His Excellency; and was, lastly, presented to His Excellency, accompanied by the information, that the maintenance of the friendship and good feelings between the United States and Spain seemed to make it highly important that Spain should turn her attention to the subject as soon as possible, and give an answer to those repeated remonstrances, which the undersigned might communicate to the Government of the United States, as the evidence

that Spain was not wholly inattentive to a subject to which the United States attached so much importance. The undersigned had the honor to urge upon His Excellency the necessity of a speedy reply, because of the approaching session of the American Congress, before whom there was great reason to believe, the President of the United States would consider it necessary to lay some report, in reference to this subject, so interesting to a large class of the American community; and, also, because the Congress of the United States had, at their last session, turned their attention to this subject, but had foreborne to recommend measures of energy, by possibility extending to measures of reprisal on the commerce of Spain, purely from deference to their anxious desire to maintain, unimpaired, their friendly relations with Spain, and from the hope which they entertained, that a strong sense of justice on the part of Spain, would induce her to give a just attention to the remonstrances on the subject, presented by the American minister near His Catholic Majesty. The undersigned had the honor to state that he was authorized to say, that the Executive of the United States felt an anxious wish to preserve, undisturbed, the harmonious relations, and the friendly sentiments, between the two Governments; that he, the undersigned, personally felt the influence of the same strong feelings; but that he did not feel justified in expressing the opinion, that the same influence might operate with the National Legislature to the extent of protracted forbearance, after the lapse of twelve months, expended in fruitless efforts, on the part of the American Minister, to induce the councils of his Majesty to turn their attention to the appeals of a friendly nation, bound to protect its citizens, and to obtain justice for them, aggrieved by the misconduct of the officers of another nation. The undersigned begs leave to inform his Excellency, that the Congress of the United States will commence its session on the sixth day of December ensuing; at which time it would, doubtless, be highly agreeable to the American Government to be informed of the disposition of His Catholic Majesty to meet their reclamations in the most amicable manner, and of His Majesty's determination to adopt such a plan of accommodation of these matters of difference between the two Governments as shall comport with the great principles of justice, and with the just obligations of a friendly nation to indemnify others, injured by the misconduct of its officers, in a manner satisfactory to the nation whose citizens have sustained the injuries.

The undersigned has the honor to renew to His Excellency the tender of his most distinguished consideration, and subscribes himself  
His Excellency's very humble and obedient servant,

HUGH NELSON.

His Excellency DON FRANCISCO DE ZEA BURMUDEZ,  
*H. C. M. First Secretary of State and of Despatch.*









## REPORT

*Of the Committee of Foreign Relations of the House of Representatives,  
on Piracy and Outrages on American Commerce by Spanish Privateers.*

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JANUARY 31, 1825.

Read, and referred to the committee of the whole House to which is committed the  
“ bill providing additional means for the suppression of piracy.”

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The Committee of Foreign Relations, to whom was referred so much of the President's message to Congress at the opening of the present session, as relates to piracy and the outrages committed upon our commerce by vessels bearing Spanish commissions, and the memorials from different quarters of the Union on the same subjects, availing themselves of the documents accompanying the President's message to the Senate, of the 13th of January, which have been printed by order of that body, present to the House the result of their deliberations upon the subject submitted to them:

From the commencement of the Revolution, which has terminated in the separation of Spanish Continental America from Old Spain, the commerce of the United States, in common with that of all other nations, has suffered frequent outrages from the vessels of the adverse parties duly commissioned, with doubtful commissions, and from pirates who sought to conceal their true character by the use of the flag of some one of the belligerents. Constant efforts have been made by this Government to redress injuries suffered, and to prevent future outrage. Congress have, at all times, been prepared to give, and have afforded all the means necessary for these purposes within their province.

The act of the third of March, 1819, was passed specially to protect the commerce of the United States, and punish the crime of piracy. It gave to the President power (a power, however, which the President possesses without an act of Congress) to employ the public armed vessels of the United States to protect our merchant vessels and their crews from piratical aggression and depredation, to authorize the detention, capture, and trial of any armed vessels which attempted any piratical depredation, search, seizure, or restraint of an American vessel. It authorized our merchant vessels to capture armed ships not commissioned by a friendly power, and to recapture ves-

sels taken by them, and it directed the condemnation of the vessels so captured or recaptured; it provided for the punishment of the pirates, when convicted by the competent tribunals. This act was limited to one year, but was continued in force by the act of May 15, 1820, for two years, and the first four sections made perpetual by the act of the 30th January, 1823.

The re-establishment of the Constitutional Government in Old Spain, in March, 1820, inspired the strongest hope that the contest between Spain and Spanish Continental America would be soon amicably terminated, in a manner satisfactory to the parties at war, to the commercial and civilized world, and to all the lovers of humanity, justice, and liberty. The first movements of the regenerated government promised a speedy realization of this hope.

The Cortes of Spain directed negotiations to be opened with Spanish America: commissioners were appointed; but the contending parties did not take the same view of the great questions between them. Old Spain would not admit the recognition of the independence of the Spanish American Governments, as the basis of negotiation; and the Spanish American Governments would not negotiate without that preliminary recognition. While these abortive attempts at negotiation were made, there was a temporary cessation of hostilities in Venezuela. The war, however, was renewed in Venezuela before the negotiations were broken off. Fortune favored the Americans; and the European Spaniards were driven from the continent. During this desperate contest, General Morales, the commander of the Spanish forces, issued his extraordinary proclamation, declaring a coast of twelve hundred miles in a state of blockade, and interdicting all foreign commerce with the Spanish Main, as inconsistent with the colonial law of Old Spain. This proclamation has been the fruitful source of most of the evils since suffered by all commercial nations in the West Indies, and in the Gulf of Mexico. Numerous pirates, and swarms of privateersmen, (subsequently degenerated into pirates,) have preyed upon all neutral commerce. Protection to that of the United States should have been, if it has not been, afforded—against pirates, by the use of all the necessary means under the control of the Executive; by a vigorous exertion of the naval power; by incessant watchfulness on the seas, and on the coasts infested by them; rigorous examination of all suspected vessels of every size; ardent pursuit of the persons found *flagrante delicto*, wherever they sought refuge; careful prosecution, before the competent tribunals, of all the accused, who were taken; unrelenting severity in inflicting punishment, where guilt was judicially established—against privateersmen, by appeals to the government of Spain, requiring immediately redress for the past, and security for the future: if made in vain, application should have been made to Congress, to authorize reprisals, or to declare war, as the extent of the injury, and a due regard to the condition of the Spanish government should have required. A further reference, however, to the past, would not be useful. For the present, and for the future, if legislative provisions are necessary, they should be made.

Piracy at present exists in the same form as in the year 1822, when a species of naval force, supposed to be particularly adapted to suppress it, was placed at the disposal of the Executive. This force was believed to have answered the expectations entertained of it, as the President, at the opening of the last session of Congress, announced that "it had been eminently successful in the accomplishment of its objects." If further experience has shown that this species of force is inadequate to the accomplishment of the object, and that another may be advantageously substituted, there can be no doubt of the propriety of the substitution. This is a point, however, that the committee do not consider it their duty to examine; it belongs properly to another committee, the result of whose deliberations upon it has been already presented to the House. The merchants of the United States, who have, with the exception of our seamen, the deepest interest in this subject, suggest the propriety of suffering the owners of vessels to arm for their own defence. There is no law forbidding such defensive armament, nor is any law required to justify it. It is, however, asserted, that the restraints upon the armament of merchant vessels are inconvenient and oppressive, and that they ought to be removed. The only provision on this subject is, that which requires bond and security to be given to prevent an unlawful use of the armed vessel; a provision which should not be changed—an adherence to which the best interest of commerce requires.

The propriety of authorizing by law the pursuit of the pirates on land, has also been a subject of consideration. The committee do not deem an act of Congress for this purpose necessary. The rule of international law is, that fugitives from the justice of one nation are to be considered in another as strangers entitled to protection, and having a right of residence; on the common principle, that no nation has a right to punish a person who has not offended itself, nor is it bound to assist its neighbor in the execution of its criminal laws. Pirates are criminals against all nations, punishable, in every tribunal: the common enemies of mankind; the duty of all nations, and every man is, to hunt them down, that they may be delivered up to offended justice. Fresh pursuit of enemies into the territory of a common friend, is not universally admitted to be a right of war. Powerful nations never permit feeble neighbors to enter their territory for this purpose, but enter without scruple in pursuit of their enemies, the territory of such neighbors, unless restrained by the apprehension that the mutual friend seeks a fair occasion to become an ally against them in the war. Practically, the question is one not of right, but of relative power. The pursuit of a mutual enemy into the territory of a friendly or allied power, is a right of war: it cannot be deemed a violation of the sovereignty of that power; it confers a favor, and imposes upon him an obligation of gratitude.

The common enemy cannot avail himself of the protection of the territory of the third power, but by surrendering himself as prisoner of war, and in that event, if the force of the pursuer was the cause of the surrender, the pursuer might rightfully claim the benefit of

the surrender. Under this rule the pursuit and capture of pirates any where, and every where, may be justified. The Executive has acted upon it. Instructions have been given to our naval commanders to pursue, and capture on Spanish territory, pirates who seek refuge or concealment there. The government of Spain has been duly warned of the existence of these orders; it knows that they will be obeyed. No remonstrance has been made by it; no objections have, as far as the committee have been informed, been urged. The acquiescence of Spain is all that should be desired. A distinction is supposed to exist between pursuit of pirates on lands uninhabited, and on those inhabited; and it is imagined that the authority of Congress is necessary to justify pursuit in the latter case, while in the former, the power of the Executive alone is sufficient. The committee do not admit the correctness of this distinction. Fresh pursuit is justifiable in either case, if necessary to the capture of the pirate. There is greater danger of collision with the friendly power, when the object of pursuit flies into a settled country, and greater care is requisite to avoid giving offence; but the same principles apply to either case, and it is just as necessary that Congress should legislate to justify the capture of pirates, as to authorize the pursuit of them into any place of refuge inhabited or unsettled.

From an attentive examination of the letters of the agent who was sent to Cuba to obtain information, relative to the pirates who have long infested the coast of that island, it would seem that no fresh pursuit on land will eradicate the evil. Authority must exist to search in the suspected settlements for persons believed to be guilty of piracy, and for the evidence of their guilt, and to bring them before our tribunals for trial and punishment. This authority Congress cannot give without making war upon Spain. It cannot be used without wresting from Spain her municipal jurisdiction. The evil lies too deep to be reached by any ordinary measures, which foreign powers can apply to it.

The government of Spain must give to the local authority what it is said to want,—sufficient strength to prevent and to punish crimes: it must perform its duties, or those who suffer from its neglect or weakness will be driven, by the necessity of the case, to apply the corrective. The committee would bring more distinctly into view the only efficient remedy, and recommend a resort to it, if they believed sufficient time had elapsed since remonstrances were made by our government to Spain, to prove incontestably that she wanted either the power or the will to do her duty, although they are aware that the conduct of any government in applying that remedy without previous concert with other nations alike interested in the question, would be liable to misconception, and excite well-founded jealousies. The committee cannot doubt that the Executive, applying all proper means to prevent, to detect, and to punish, the crime of piracy, and pressing upon Spain, and her local authorities, that the honor and the interest of Spain requires their best exertions for the same purpose, will not fail to confer with the great commercial

nations on the extraordinary measures to be used, if the object is not speedily accomplished by the faithful exertion of the powers of Spain.

The danger to which our commerce is exposed, and the injuries it has suffered from privateers acting under regular or irregular commissions, are of a different character, and require a different remedy. The committee understand that outrages of this kind have almost, if not entirely, ceased; for those which have been inflicted, or which may hereafter be inflicted, Spain is directly responsible. Reparation must be had; by negotiation, or by the exercise of such powers as may, for that purpose, be vested in the Executive by Congress.

To guard against future injury, the safest resource is to enforce promptly, ample redress for that which has been suffered. The committee have already referred to the injuries suffered in consequence of the proclamation of Morales. Those injuries are not yet redressed. The Government of Spain has not attempted to justify a Proclamation declaring, with a naval force insufficient to shut up the smallest port on the coast, a seacoast of twelve hundred miles in a state of blockade, nor the absurd pretension that the property of all neutral nations, is, under the colonial law of Spain, liable to confiscation, if taken on its way to Spanish America; but the property of American citizens captured by privateers from the Islands of Porto Rico and Cuba, and from Porto Cabello, is now withheld under these pretensions. The Spanish Government having formally revoked the blockade, gives to the tribunals of Spain an excuse for the condemnation of all property seized prior to that revocation; an excuse of which they do not hesitate to avail themselves. Acting under instructions from the President, of the 28th April 1823, the Minister of the United States, at the Court of Spain, demanded satisfaction in January, 1824, from that Government, for the outrages committed from Porto Cabello, and the Islands of Porto Rico and Cuba, upon the commerce of the United States, and for the wanton murder of one of our gallant officers in the harbour of St. John's, by the officer commanding the fort at its entrance. In September, of the same year, Spain was again called upon to indemnify those who had suffered in person or property under the proclamation of blockade, or from the interdiction of neutral commerce to the Spanish Main. In October, the just reclamations of our Government were, for the third time, formally made to the Government of Spain. No satisfaction has been given, no indemnity has been promised, nor has there been even a satisfactory excuse given for the delay to answer the just demands of the Minister of the United States.

The character of the injury sustained, its origin, the period elapsed since it was inflicted, the formal and fruitless demand for reparation for more than twelve months, justify reprisals. An anxious desire not to act harshly to a Government embarrassed by internal difficulties, and enfeebled by recent revolutions, the distance of the seat of the Spanish Government, from the places in which the evils complained of originated, the death of the Minister appointed by the Spanish Government on the eve of his departure to this country, and

the recent selection of another Minister, whose appointment and intended departure for the United States, has been communicated in an official letter, a translation of which is herewith presented to the House, induce the committee not to propose any legislative enactment, under the firm conviction that this forbearance will give to Spain a new motive to make speedily ample reparation for the injuries sustained, and that, if it does not produce this desired effect, it will justify, in the eyes of all nations, any and every step Congress may hereafter be compelled to take.

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DEPARTMENT OF STATE,

*Washington, 24th January, 1825.*

SIR: I have the honor of enclosing, herewith, a translation of the only answer yet received from the Spanish Government, to Mr. Nelson's notes on the subject of piracy and outrages on our commerce. It has been received since the communications to Congress of the previous documents were made.

I am, with great respect,

Sir, your very humble and obed't serv't,

JOHN QUINCY ADAMS.

JOHN FORSYTH, Esq.

*Chairman of the Committee of Foreign Relations, H. R. U. S.*

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[TRANSLATION.]

*Mr. Zea Bermudez to Mr. Nelson.*

SIR: From the middle of September last, when I took possession of the appointment which the kindness of the King, my august master, deigned to entrust to me, I dedicated, by order of His Majesty, my attention to the different notes presented by you, relative to the claims of the American subjects, who thought themselves entitled to be indemnified by Spain for the losses which they have suffered in the seas of America. A business so complicated, in which considerable interests are involved, presented so much more difficulty, by how much there were intermingled with it other interests and other claims of Spanish subjects against the government and subjects of the United States.

His Majesty, desirous of preserving the friendship and good harmony which happily subsists between both nations, and that, in faithful observance of existing treaties, both Governments should terminate, in a friendly manner, this delicate question, the legitimate rights, and just pretensions of both being mutually conciliated, has thought that



the most proper means for gaining this desired end, is to send immediately a Minister Plenipotentiary, to reside near the American Government, who, by his information, prudence, and practical knowledge of the relations between both countries, may be at the same time, the interpreter and the executor of the just intentions of the King. In consequence, His Majesty has been pleased to appoint Don Jose de Heredia, his Envoy Extraordinary and Minister Plenipotentiary in the United States of America. He will set out for his new destination as soon as possible.

I hasten to inform you of this, that you may be pleased to lay it before your Government; and I avail myself of this occasion, to repeat to you the assurances of my most distinguished consideration. God preserve you many years.

Your most obedient servant,

FRANCISCO DE ZEA BERMUDEZ.

*San Lorenzo, 19th November, 1824.*



CLAIMS ON SPAIN.

MESSAGE

FROM

OF THE PRESIDENT OF THE UNITED STATES,

COMMUNICATING

*Correspondence relative to Claims of Citizens of the United States  
on Spain.*

JANUARY 7, 1829.—Read, and referred to the Committee on Foreign Affairs.

*To the House of Representatives of the United States :*

WASHINGTON, 7th January, 1829.

In compliance with a resolution of the House of Representatives, of the 19th May last, requesting a copy of the correspondence between the Minister of the United States at the Court of Madrid and the Government of Spain, on the subject of claims of citizens of the United States against the said Government, I transmit herewith a report from the Secretary of State, with the correspondence desired by the resolution.

JOHN QUINCY ADAMS.

DEPARTMENT OF STATE,

Washington, 5th January, 1829.

The Secretary of State, to whom has been referred a resolution of the House of Representatives, of the 19th May, 1828, requesting the President to "communicate to that House (if the public interest should permit) a copy of the correspondence between the Minister of the United States at the Court of Madrid and the Government of Spain, on the subject of claims of citizens of the United States against the said Government," has the honor, in compliance with the wish of the House, respectfully to submit to the President the accompanying copies and translations of notes interchanged between the Minister of the United States at Madrid and the office of Foreign Affairs of the Government of Spain, which comprehend the correspondence called for by the resolution.

H. CLAY.

*List of the papers accompanying the foregoing report.*

Copy of letter from Mr. Everett to the Duke del Infantado, 6 Nov. 1825,  
Copy of letter from Mr. Everett to the Duke del Infantado, 30 Nov. 1825,  
with project of a convention.

- Copy of letter from Duke del Infantado to Mr. Everett, 6 May, 1826.  
 Copy of letter from Mr. Everett to the Duke del Infantado, 8 May, 1826.  
 Copy of letter from Mr. Everett to Mr. Salmon, 10 Sept. 1826, with project of a convention.  
 Copy of letter from Mr. Salmon to Mr. Everett, 16 Jan. 1828.  
 Copy of letter from Mr. Everett to Mr. Salmon, 13 Feb. 1828.

His Excellency the DUKE DEL INFANTADO,

*Principal Secretary of State, &c. &c.*

SIR: Since the date of the conclusion of the Florida treaty, by which all the claims and pretensions of the two contracting parties upon each other were definitively settled, up to that time, various cases have occurred, in which the property of citizens of the United States has been illegally and violently seized by agents of his Catholic Majesty, sometimes under false pretences of right, sometimes without any pretext whatever, and always, I trust, in opposition to the instructions and intentions of His Majesty's Government, as well as to the common law of nations, and to the treaty existing between the two countries. The persons affected by these seizures and other acts of violence are entitled to claim an indemnity for their losses and sufferings from his Majesty's Government; and that of the United States is bound, by its duty to the nation which it represents, to urge these claims, and to obtain the satisfaction of them. The cases alluded to, excepting some that are of recent date, have accordingly been brought to the notice of his Majesty's Ministers, from time to time, as they occurred; and it would be superfluous to trouble your Excellency on this occasion with a recapitulation of their details. The character of them is fully stated and explained in the notes transmitted by my predecessor on the 23d of January, 29th of March, and 7th of September, of the last year. These cases have now become very numerous; and it is considered indispensable by the Government of the United States, that a general arrangement should be made of them all, by a convention framed for this special purpose. I have accordingly been entrusted by the President with a full power to conclude such a convention, and instructed by him to present the subject to the consideration of his Majesty's Ministers, immediately after my arrival; and to request of them, as a thing particularly desired by the Government of the United States, that it may be taken up and arranged without unnecessary delay.

Upon my arrival at this Court, a few weeks since, I accordingly communicated these facts to your Excellency's predecessor, and informed him that I was ready to exhibit my powers to himself, or any other person who might be named by his Catholic Majesty to conduct the negotiation, and that I was prepared to enter upon it immediately; observing to him at the same time that I was desirous to proceed in it in the manner, which might be most agreeable to his Majesty's Government. M. de Zea Bermudez assured me, in reply, that His Majesty's Government were also prepared to enter at once upon this negotiation, and expressed his satisfaction that I had been invested with powers to conclude the arrangement here. He wished, me, however, as a preliminary step to the commencement of any formal proceedings, to state to him in writing, in a general way, the nature

of the claims advanced by the United States, and of the principles upon which the President desired that they shall be settled.

In compliance with this request, and referring your Excellency to the above mentioned notes, transmitted by my predecessor, for the description of the nature of the most important of the claims, I have now the honor to propose that a convention should be concluded between the two Governments, providing for the liquidation and settlement, by Commissioners to be appointed for the purpose, of all demands which citizens or subjects of either power may have upon the Government of the other, on account of illegal seizures, captures, condemnations, or confiscations, by the agents of such Government, during the period which has elapsed since the conclusion of the Florida treaty. The convention for the liquidation and settlement of claims, concluded by the Government of his Catholic Majesty with that of Great Britain, on the 12th of March, 1823, may be conveniently taken as a model, especially as a great part of the claims provided for in that convention were precisely similar to those now urged by the Government of the United States, and involved the same principles of law and justice. Any variation from the form of this convention, that shall appear expedient, may be suggested and adopted in the course of the negotiation.

The Government of the United States are not precisely acquainted with the nature of the claims which his Majesty's subjects are represented as having upon them, on account of seizures or other acts of violence committed by their agents. It is, however, the President's wish that such claims, as far as they may be substantiated, should be provided for in the same convention; and I am authorized to agree to any principle that shall be suggested by his Majesty's Government, in relation to them, which may have been founded on justice and equity. I have, accordingly, no hesitation in saying, that, upon the consent of his Majesty's Government to satisfy the just demands of the United States, I shall be ready to stipulate, on their part, for the allowance of a fair compensation for the damages which may have been done to individuals by the unauthorized proceedings of Captain Porter, upon the Island of Porto Rico, agreeably to the desire manifested by your Excellency, in your late note of the 28th of October.

I have the honor to be, with the highest respect, sir, your Excellency's most obedient servant,

A. H. EVERETT.

MADRID, *November 6, 1825.*

To His Excellency the Duke del INFANTADO :

SIR: I have the honor to transmit, herewith, to your Excellency, a project of a convention of indemnities, which will give you a more distinct view of the nature of the claims made by the United States, and of the manner in which the President wishes that they may be settled, than was conveyed by my note of the 6th, to which I also beg leave to refer you.

It is now three or four years since the occurrence of the captures that gave rise to the most important of these claims. It is more than two years since claims of precisely the same description have been allowed to the British Government; and it is two full years since the Government of the

United States applied to His Catholic Majesty for an equal measure of justice. It was, therefore, with much satisfaction that I learnt from your Excellency's predecessor, M. de Zea Bermudez, that His Majesty's Government were now ready to enter upon this negotiation; and I venture to hope that it may be concluded to the satisfaction of both parties, without further delay.

I propose to have the honor of calling upon your Excellency, at your office, on Tuesday next, for the purpose of conversing upon this subject, if I should not hear further from you, respecting it, before that time; and I trust that your Excellency will then be ready to come to some arrangement in regard to the preliminary proceedings.

I beg your Excellency to accept the renewed assurance of my sincere respect and esteem.

A. H. EVERETT.

MADRID, November 30, 1825.

*Project of a convention between His Catholic Majesty and the United States of America.*

The general object of the convention is to provide for making compensation to the citizens and subjects of each of the high contracting parties, for losses occasioned by illegal captures, seizures, condemnations, and confiscations, by agents of the other. It might, therefore, consist of the following articles, and such others as may appear necessary:

ARTICLE I.

His Catholic Majesty engages to indemnify the citizens of the United States, who have sustained losses by the illegal proceedings of his agents, since the conclusion of the Florida treaty; and the United States in the like manner, engage to indemnify the subjects of His Catholic Majesty for losses of a similar kind, sustained by them during the same period.

ARTICLE II.

For the purpose of liquidating these claims, a Board of Commissioners shall be constituted, consisting of two persons; one to be appointed by His Catholic Majesty, and the other by the Government of the United States, and shall hold its sittings at the City of Washington. Should either party fail to appoint a commissioner, or should the commissioner who shall be named by either party fail to appear at the City of Washington, within six months after the exchange of the ratification of this convention, the vacancy thus occasioned in the board shall be filled by the other Government; and the doings of the board thus constituted shall be as valid against both Governments as they would have been if each had appointed a commissioner.

ARTICLE III.

The cases laid before the commissioners shall be determined according to equity and the acknowledged principles of the law and usage of nations.

## ARTICLE IV.

In order to avoid any doubt or disagreement that might arise respecting certain classes of claims, the commissioners are hereby authorized to allow those of citizens of the United States, on account of losses occasioned by the captures made by naval officers bearing His Catholic Majesty's commission, under pretext of the decrees of General Morales, of 1821, '2, declaring a blockade of the whole coast of the Gulph of Mexico; and interdicting all trade with the Spanish settlements in America.

## ARTICLE V.

The Commissioners are authorised to allow the claims on account of losses sustained by His Catholic Majesty, or his subjects, in consequence of the proceedings of Commodore Porter in the island of Porto Rico, in the year 1824.

## ARTICLE VI.

The Commissioners are authorised to settle, upon principles of equity and natural justice, the claims of certain citizens of the United States, on account of church lands purchased by them of His Catholic Majesty during the period of the Constitution, and paid for at that time, and which His Catholic Majesty has since taken from them, without repaying them their money.

## ARTICLE VII.

The Commission shall meet at the City of Washington, within six months, or as much sooner as may be convenient, after the exchange of the ratification of this Convention, and shall immediately give public notice that their Board is organized, and ready to proceed to business; and no claim shall be admitted which is not presented to the Commissioners within the term of six months after the giving of such public notice.

## ARTICLE VIII.

In order to prevent any unnecessary delay in the accomplishment of the objects of this Convention, it is agreed that all claims against either Government, which shall be presented in due time to the Commissioners, and shall not be allowed or finally rejected within two years after the organization of the Board, shall be considered as valid, and paid accordingly.

## ARTICLE IX.

The decision of the Commissioners, in all cases in which they are agreed, shall be final. In the cases upon which they may differ, each Commissioner shall reduce his opinion to writing, specifying the reasons upon which it is founded; and the case shall be referred to the decision of the Minister of some power in amity with both the contracting parties, resident at Washington, who shall be named by agreement between the

Spanish Minister at Washington and the Secretary of State of the United States, and who shall decide the case upon a view of the two written opinions of the Commissioners, exclusively of all other evidence or argument; and his decision shall be final.

#### ARTICLE X.

After liquidating all the claims that may be laid before them, the Commissioners shall draw up and present to both Governments a report of their proceedings, specifying the claims that have been allowed, the sum due in each case, and the total amount due by each Government to citizens or subjects of the other. The balance that may result from a comparison of these two sums total shall be paid by the Government against which it may be found, within the term of six months from the date of the report; and the account being thus settled between the two contracting parties, each Government shall satisfy the claims of its own citizens or subjects.

#### ARTICLE XI.

Should the debtor party fail to pay the balance which it may be found to owe, within the time limited by the preceding article, the party to whom it may be due is hereby authorized to take the property of the citizens or subjects of the debtor party, wherever it may be found, to an amount sufficient to satisfy the debt, according to the principles of reprisals admitted by the law of nations: and the individuals whose property may be thus taken shall look for indemnity to their own Government.

#### ARTICLE XII.

[Provides for the ratification.]

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[TRANSLATION.]

*The MINISTER PLENIPOTENTIARY of the United States :*

SIR : It is now about a year and a half since the King, my august master, upon view of the different notes transmitted by your predecessors to this department, respecting the claims of certain citizens of the United States who consider themselves entitled to indemnity from Spain for losses sustained on the seas in America, subsequently to the treaty of the 22d of February, 1819; and being also informed of the existence of similar claims of certain Spanish subjects upon the Government and citizens of the United States, was pleased to appoint Don Joseph de Heredia his Minister Plenipotentiary to the United States, with authority to settle this delicate question, by an amicable arrangement, that might conciliate the rights and pretensions of the two Governments. Heredia, while preparing for his departure, was attacked by a serious illness, which made it dangerous for him, in the opinion of the physicians, to undertake the voyage; and the King thought proper, in consequence, to discharge him, at his desire, from the honorable employment in question. But being



anxious, at the same time, that this unfortunate and unforeseen accident should not interrupt the progress of the affair, His Majesty was pleased to nominate, as his successor, Don Francisco Tacon, at that time resident at London; of which new appointment, information was given to your predecessor on the 12th of July, of last year. The important-business in which this person was employed at the time of his nomination is not yet settled; and he has consequently not been able hitherto to set off for his destination; so that the upright intentions of His Majesty have been in this way again disappointed.

But the King, my master, being still desirous to see them accomplished as soon as possible, and also to give to the Government you represent a new and incontrovertible proof of his ardent desire to adopt every measure that may contribute to strengthen the bonds of friendship which unite the two nations, has thought proper to authorize Don Manuel Gonzalez Salmon and the aforesaid Don Joseph de Heredia, persons entitled, by their distinguished talents and estimable qualities, to his Majesty's confidence, to confer with you upon the subject of the above mentioned claims.

I have now the honor to give you notice of this appointment, and also to inform you that the necessary orders will be passed this very day to the persons appointed, in order that they may enter immediately upon the discharge of the duty committed to them.

I avail myself of this occasion to offer you the renewed assurance of my distinguished regard.

THE DUKE DEL INFANTADO.

ARAJUEZ, *May 6, 1826.*

His Excellency the Duke del INFANTADO,

*Principal Secretary of State:*

SIR: I learn with much pleasure, from the note which your Excellency did me the honor to address to me, under date of the 6th of the present month, that His Majesty had been pleased to appoint Messrs. Heredia and Salmon Commissioners, to treat with me upon the claims of the Government of the United States on that of Spain for indemnity on account of spoliations committed on the property of their citizens by military and civil agents of his Majesty, since the conclusion of the treaty of February 22, 1819, and upon the claims of a similar kind, which the Spanish Government is represented as authorized to make upon that of the United States.

The high reputation of the persons appointed, and their familiar acquaintance with the subject, inspire me with full confidence that His Majesty's Government have adopted this measure with a view of bringing the question to a prompt and satisfactory settlement. I shall immediately transmit information of it to my Government; and am sure that it will be regarded by the President as a very acceptable proof of His Majesty's respect for justice, and friendly dispositions towards the United States. It

will afford me, on my part, great satisfaction to communicate with gentlemen so justly distinguished for their merit and talents, as the persons appointed; and I indulge a hope that the negotiations upon which we are to enter will shortly result in the conclusion of an arrangement that shall be at once advantageous and agreeable to both the parties.

I avail myself of this occasion to offer your Excellency anew the assurance of my sincere respect and esteem.

A. H. EVERETT.

MADRID, *May 8, 1826.*

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HIS EXC. DON MANUEL GONZALEZ SALMON,  
*Principal Secretary of State:*

SIR: I have the honor to transmit herewith to your Excellency another copy of the project of a convention of indemnities, which I took the liberty, some months since, by order of my Government, of submitting to the consideration of your Excellency's predecessor.

I have made a few alterations in some of the articles, agreeably to subsequent instructions from my Government; and have substituted the article which I had the honor of communicating to you yesterday, instead of the one which stood in the former copy of the project as the fourth.

I avail myself of this occasion to renew to your Excellency the assurance of my sincere respect and esteem.

A. H. EVERETT.

MADRID, *Sept. 10, 1826.*

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*Project of a Convention to be concluded between His Catholic Majesty and the United States of America.*

#### ARTICLE I.

His Catholic Majesty engages to indemnify the citizens of the United States who have sustained losses by the illegal proceedings of his agents, since the conclusion of the treaty of February 22, 1819; and the United States engage to indemnify the subjects of His Catholic Majesty for losses of a similar kind, sustained by them during the same period.

#### ARTICLE II.

For the purpose of liquidating these claims, a Board of Commissioners shall be constituted, consisting of three persons, one of whom shall be appointed by His Catholic Majesty, another by the President of the United States, and the third by the two Commissioners thus named, provided they can agree upon a choice. Should they be unable to agree, each of them shall propose some person, and lots shall be cast in the presence of the two first named commissioners, to determine which of the two persons thus designated shall act.

## ARTICLE III.

Should either Government fail to appoint a Commissioner, or should the Commissioner who shall be named by either Government fail to appear at the city of Washington within nine months from the exchange of the ratifications of this convention, the other Commissioner shall proceed alone; and his doings shall be as valid against both Governments as if each had appointed a Commissioner.

## ARTICLE IV.

The cases laid before the Commissioners shall be determined according to equity and the acknowledged principles of the law and usage of nations.

## ARTICLE V.

In order to avoid any doubt or disagreement that might arise respecting certain classes of claims, the Commissioners are hereby authorized to allow those of citizens of the United States, on account of ships and cargoes belonging to them, which may have been captured and condemned, under the authority of His Catholic Majesty, for entering a port declared by his said Majesty, or any of his officers, to be in a state of blockade, whenever such blockade shall not have been, at the time of such entry, actually sustained by the presence of one or more armed vessels of His Majesty's navy, cruising off such port.

## ARTICLE VI.

The Commissioners are authorised to submit to examination and adjudication the claims of His Catholic Majesty, or his subjects, on account of losses sustained in consequence of any proceedings of Commodore Porter, on the Island of Puerto Rico, in the year 1824, which may have been in contravention of public law.

## ARTICLE VII.

The Commissioners are authorised to settle, on principles of equity and justice, the claims of certain citizens of the United States on account of church lands, purchased by them of His Catholic Majesty during the period of the constitution, and paid for at that time, the sales of which may have since been annulled by his said Majesty.

## ARTICLE VIII.

The Commissioners shall meet at the city of Washington within nine months, or as much sooner as may be convenient, after the exchange of the ratifications of this convention, and shall give public notice of the time when the board is organized and ready to proceed to business: and no claim shall be admitted which is not presented to the Commissioners within the term of twelve months after the giving of such public notice.

## ARTICLE IX.

The Commissioners shall proceed with all convenient despatch in the execution of their duties; and it is agreed that the sittings of the board shall not be extended beyond the term of three years from the time of its organization.

## ARTICLE X.

After liquidating all the claims that may be laid before them, the Commissioners shall draw up and present to both Governments a report of their proceedings, specifying the claims that have been allowed, the sum due in each case, and the total amount due by each Government to citizens and subjects of the other. The balance that may result from a comparison of these two sums total shall be paid by the Government against which it may be found to the other Government, within the term of one year from the date of the report; and the account being thus settled between the two contracting parties, each Government shall satisfy the claims of its own citizens and subjects.

## [TRANSLATION.]

To the MINISTER of the United States :

SIR : The notes transmitted by your Excellency and your predecessors, on the 10th and 23d of January, 1824, the 30th of November, 1825, and the 10th of September, 1826, have been received in succession at this Department.

The purport of their contents is, in substance, to show : 1st, that certain vessels of the United States were plundered, some years ago, by a swarm of pirates proceeding from the haunts which they frequent, and which are only known to themselves, in the uninhabited parts of the Island of Cuba, and that the spoil acquired by these outlaws was sold openly and with impunity at the Havana; 2d, that a small squadron having been sent by the United States to cruise off Puerto Rico, and the commander of it having sent one of his officers, Mr. Cocke, into the port of St. John's, said officer was fired upon by the battery of the fort; 3d, that the Spanish authorities have occasioned serious injuries to your Excellency's fellow-citizens, by arrogating to themselves powers incompatible with the law of nations, by declaring blockades, which your Excellency deems unjust, because of the want of a necessary force to maintain them, by establishing prohibitions injurious to the commerce of neutrals with the continent, and, finally, by granting, at Puerto Rico and Puerto Cabello, letters of marque to cruisers, who, under color of them, have committed, as is said, excesses of every kind.

The Government of the United States demands, in consequence : 1st, that the Spanish officer who gave the order for firing on Mr. Cocke should be severely punished; 2d, that the authorities at Cuba should be directed to take the most vigorous measures for the destruction of the pirates; 3d, that an arrangement, similar to that which was made with Great Britain

in 1823. should be entered into with the United States, in order to indemnify the citizens of the same for the depredations committed on their property by the aforesaid cruisers; and that, for this purpose, a convention should be concluded, agreeably to the draft transmitted by your Excellency.

The King, my master, who, as your Excellency must be aware, is sincerely desirous to maintain the amicable relations that happily exist between his Government and that of the United States of America, entered forthwith into a serious and minute consideration of the above communications; but perceiving, at first view, the importance of the subject, determined, before adopting any definitive resolution, to take the opinion of various persons, whose integrity and wisdom have given them a title to his confidence. Not satisfied with having taken this step, and in his anxiety to adhere strictly to justice, His Majesty directed that the question, with all the documents relating to it, should be referred to the Council of State, who, after a serious consultation, were to recommend whatever measures might appear to them most conformable to justice.

The Council accordingly proceeded to deliberate upon the subject; and the principles and reasoning on which their report is grounded have afforded a new basis to the decision taken by His Majesty.

In regard to the request first made, which is, that the officer who gave orders for firing on Mr. Cocke should be punished, it is not possible, for the present, to say any thing in addition to the communication made, on the 14th of August, 1824. to your Excellency's predecessor, to whom were then given all the explanations and information which had been obtained with respect to this unfortunate occurrence. Should any others be received henceforward, I shall not fail to communicate them to your Excellency.

As respects the second request, which is, that orders should be communicated to the authorities of Cuba for adopting the most vigorous measures for the extirpation of the pirates, the wishes of the American Government on this head will have been, by this time, completely satisfied: for it does not appear that any more effectual means could have been resorted to, for attaining this object, than the expedition and equipment of a squadron, which has been sent to cruize in those seas, under the orders of Admiral Laborde.

This measure will, no doubt, be sufficient, if the Government of the United States adopt, on their part, such as may be necessary for preventing, in future, the construction, armament, and equipment of vessels, which, notwithstanding the reiterated remonstrances of His Majesty's representative in Philadelphia, and the assurances given of a strict neutrality, have been employed in the service of the pirates. Upon this subject, your Excellency will permit me also to observe, that, agreeably to the information obtained by His Majesty's Government, the authorities of the Havana and Puerto Rico, so far from proceeding against the pirates with the lenity that is imputed to them, have exhibited the greatest energy in suppressing their depredations, and in more than one instance have inflicted on them the punishment of death.

But, as relates to the proposition of a convention for indemnifying the citizens of the United States for losses incurred by the capture of their property by these cruisers, His Majesty is under the necessity of declining to accede to it.

The King, my sovereign, notwithstanding the satisfaction it would have

given him to gratify the Government of the United States, has been constrained to adopt this resolution from a sense of the duty incumbent on him to act according to the dictates of a religious conscience, and with a due regard to the welfare of his people. He has ordered me to state to you, summarily, the motives by which he has been actuated on this occasion.

His Majesty cannot forget that the right of property is one of the most sacred known among men. No one, without committing an injustice, can prohibit or hinder another from disposing, according to his pleasure, of that which belongs to him, nor prevent him from excluding all others from a participation in what he possesses, unless there exist an express stipulation to the contrary. This is one of the most important rights of men; a principle uniformly maintained by all Governments, and so generally acknowledged that it has become a vulgar axiom. It is this incontrovertible principle which has afforded a ground for the conduct of Spain, as relates to her American possessions; the commerce of which has at all times been interdicted to other nations, under the severe penalties expressed in the statutes of India. And this same principle, which has also been adopted by other maritime Powers with regard to their colonies, has newly and recently been recognized by these Powers, at the time when they solicited in so earnest a manner, and received with so much satisfaction, the Royal decree of the 9th February, 1824, by which His Majesty, for the first time, admitted foreigners to a participation in the commerce of those countries.

The multiplicity of adverse political combinations which have harassed the peninsula, made it impossible for the King to act with the promptitude and vigor that were necessary to cause his rights in America to be respected, as well by the rebel inhabitants of that part of the Spanish dominions, as by foreigners, who assisted them by their co-operation, both moral and physical. But this was no reason why Spain should be deprived of the privileges which she had enjoyed for ages past; nor could she be supposed on this account to have lost the right of reminding both friends and foes of restrictions which had not been revoked, nor of making every effort in her power to enforce the observation of them. This, and only this, is what has been done by General Morales, in adopting, for the attainment of this object, the measures against which your Excellency has reproduced various arguments, which have not appeared convincing either to His Majesty or to the Council.

Your Excellency's fellow-citizens were not ignorant of these prohibitions: they well knew the risk to which they exposed themselves; and, consequently, have no ground on which to rest a claim for indemnification for any losses or damages which they may have suffered; the more especially as they also knew of the existence of the treaty of amity and boundaries, concluded on the 27th of October, 1795, and expressly confirmed by the 13th article of that which was signed on the 22d February, 1819; in both which, the subjects of the two powers are prohibited from carrying arms, ammunitions, or other contraband articles, to the dominions of any nation at war with either of the two contracting powers. And although it is not the intention of the Government of His Catholic Majesty to make any recrimination, they cannot refrain from offering an observation which naturally occurs on this occasion; namely, that the American Government has too much good faith not to be sensible that His Majesty might entertain some displeasure on account of the proceedings of some of

the citizens of the United States, who, in contempt of the most solemn and explicit compacts, and stimulated by an eagerness for individual gain, have directly, and with impunity, added fuel to the flames of insurrection.

It is true that His Majesty assented to the claims of Great Britain in September, 1823; but your Excellency and all Europe are well acquainted with the circumstances of that disastrous epoch, when a tumultuous faction seized upon the Government of Spain, and extorted, by means of the power which it had usurped, and in a time of confusion and terror, concessions that were made with precipitation, and, besides being grievously burdensome, are far from being just. His Majesty, who is now restored to the rights which he inherited from his ancestors, and is at the head of a just and prudent administration, cannot agree a second time to an act of this nature, which would not only be extremely oppressive to the State, and is unwarranted by any legitimate title, but would open an endless field to similar claims on the part of those powers whose subjects may have suffered losses of the same kind, by reason of their having continued to maintain their commercial relations with the revolted dominions in America, notwithstanding those of amity and alliance which subsisted between them and Spain.

I have the honor to communicate the above to your Excellency, by order of the King, my august master; and avail myself of this opportunity to renew the assurance of my distinguished consideration.

God preserve your Excellency many years.

MANUEL GONZALEZ SALMON.

PALACE, January 16, 1828.

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His Exc. DON MANUEL GONZALEZ SALMON,

*Principal Secretary of State:*

SIR: I have had the honor to receive your Excellency's note of the 16th ultimo, purporting to be an answer to those which have been successively transmitted by this legation, on the 10th and 20th of January, 1824, the 30th of November, 1825, and the 10th of September, 1826.

In the two first of this series of notes, the Minister of the United States submitted to His Majesty's Government, by order of the President, a succinct account of the depredations committed upon the commerce of those States in the Gulf of Mexico, subsequently to the renewal of the war between this kingdom and her American colonies, in the year 1821, as well by the pirates which then infested the coasts of Cuba and Puerto Rico, as by privateers bearing commissions from his His Majesty, or his agents in America; and earnestly solicited his Majesty's Government to take the necessary measures for putting a stop to these outrages, and for indemnifying such citizens of the United States as had suffered by those already committed, so far as the Spanish Government was justly responsible for their effects.

The augmentation, which took place soon after, in the efficiency and vigilance of His Majesty's military and naval armaments on this station, and the presence of a squadron which the United States employed upon the same service, happily effected, in a great degree, the suppression of

the pirates; while the judicious determination of the King not to grant any more commissions for private armed vessels, afforded security against the renewal of the other class of the outrages alluded to above. The only remaining demand presented in the two above mentioned notes, was that of indemnity for the losses occasioned by previous injuries. This was justly considered by both the Governments as a matter of high importance. About the same time, or soon after, other depredations, of a similar kind, had been committed elsewhere, upon citizens of the United States, by the agents of His Majesty; and it was intimated, on the other hand, to the Government of those States, that subjects of His Catholic Majesty were also entitled to bring against them a claim of indemnity, on account of injuries of the same description. Although, in a great measure, unacquainted with the existence or character of such supposed claims, the President was, nevertheless, anxious to give to every suggestion of this kind, on the part of a friendly Government, the most respectful consideration; and considered it expedient that these mutual and conflicting demands should be made the subject of a special negotiation between the parties, to the end that they might be liquidated and balanced without delay. The Spanish Government concurred in this view of the subject; and official notice was given to the Minister of the United States, that Don Joseph de Heredia and Don Francisco Tacon, who were successively appointed His Majesty's Ministers in the United States, were fully empowered to settle all the questions pending between the two Governments, of which this was distinctly understood to be one of the principal. Circumstances, the nature of which was satisfactorily explained to the Government of the United States, prevented both these persons from entering immediately upon their functions; and the Minister of the United States then accredited at this Court being about to return to his country, it was intimated to him by His Majesty's Government, that it would be agreeable to them that his successor should be authorized to conduct the negotiation at this place.

Upon my departure from home, I was accordingly entrusted with a full power to negotiate and conclude an arrangement upon this subject. Soon after my arrival at this Court, and presentation to His Majesty, I gave notice of the fact to the Secretary of State; and on the 30th of November, 1825, I addressed a note to the Duke del Infantado, conveying the same information in an official form, and inviting his Majesty's Government to enter upon the negotiation. This note forms the third in the series of those to which your Excellency now professes to reply. It referred, for a general statement of the nature of the subject, to the two preceding notes of the 10th and 20th January, 1824; and enclosed an outline of the views and wishes of the Government which I have the honor to represent, digested in the form of a project of a convention.

The proposal contained in this note was, after some delay, accepted by His Majesty's Government. In the note which the Duke del Infantado did me the honor to address to me on the 6th of May, 1826, his Excellency, after stating the intention and wish of His Majesty to adjust, by amicable negotiation, the mutual claims of the two Governments and their subjects; mentioning that Don Joseph de Heredia and Don Francisco Tacon, who had been successively appointed Ministers to the United States, would have been empowered to settle the question; and recapitulating the circumstances which had prevented these gentlemen from



repairing to the post assigned to them, and thus defeated the upright intentions of the King; concluded by informing me that His Majesty, being still intent upon the same purpose, and anxious to give a strong proof of his amicable disposition towards the Government of the United States, had appointed your Excellency and Don Joseph de Heredia his Commissioners, to treat with me upon the subject in question, and that the corresponding orders would be transmitted to you on the same day.

Immediately after receiving this information, and on several subsequent occasions, I made known to your Excellency, and to Mr. Heredia, my readiness to enter upon the business with which we were charged by our respective Governments; but no progress whatever had been made in it, when your Excellency was called by His Majesty to the distinguished post which you now so honorably fill. Soon after this, your Excellency did me the honor to inform me that the commission by which you had been authorized, in conjunction with Mr. Heredia, to treat with me upon this subject, was still in force. Finding this to be the case, I took the liberty of transmitting to your Excellency, with my note of the 10th of September following, another copy of the project of a convention, enclosed in my preceding note of November, 1825, which I had altered in some particulars, in consequence of the verbal suggestions of your Excellency, and of instructions subsequently received from my own Government. This note is the fourth and last in the series of those enumerated above.

Your Excellency will perceive from this detail that all these notes have already been answered, and in a manner satisfactory to the United States. The proposal for a negotiation, contained in the third of the series, which embraced by reference the two first, and to which the last was supplementary, was accepted by His Majesty, and Commissioners appointed accordingly. Nothing remained but to enter upon the negotiation, and to bring it, in one way or another, to a close. No request has since been made by me for any further reply to these notes; and the only subsequent communications which have taken place between your Excellency and myself upon the subject, have been, on my part, urgent instances that your Excellency would proceed without delay to the completion of the business, in the form already arranged; and on that of your Excellency, the most explicit assurances, official and unofficial, that it should, in fact, be settled as soon as possible. The note which I have had the honor to receive from your Excellency, under date of the 16th ult., purports, nevertheless, to be a reply to these same notes; and in this communication, your Excellency, after making some remarks upon the question of piracy, which has ceased to be a subject of immediate interest, and upon the unfortunate death of Lieut. Cocke, proceeds, without alluding, in any way, to the affirmative answer that has long since been given to the proposal for a negotiation upon the mutual claims of the two countries for indemnities, or to the arrangements which had been made in consequence, to inform me that the King declines to conclude a Convention for indemnifying the citizens of the United States for the losses they have sustained, in consequence of captures made by Spanish privateers, for certain reasons which your Excellency is pleased to detail.

With every disposition to put the most favorable construction upon all the proceedings of His Majesty's Government, in their relations with that which I have the honor to represent, I find myself unable to reconcile the determination announced in your Excellency's note, not only with the one

that went before it, and the substantial justice of the case, but with the forms usually observed in the intercourse of civilized and Christian nations. I am aware that there is nothing binding in the preliminary steps which may have been taken by two Governments towards a negotiation on any subject, and that either is at liberty to withdraw from such an arrangement, at any period previous to the actual conclusion and ratification of the treaty. But the usage of nations in such cases requires that the party intending to withdraw should give some notice to the other of his change of purpose, accompanied with an explanation of the reasons that have led to a measure which might otherwise wear an unfriendly appearance. It is, therefore, with strong surprise, as well as deep regret, that I find your Excellency replying in an unsatisfactory manner to several notes to which satisfactory answers had already been given, and concerning which, no new application had been made by the United States; rejecting a proposal for negotiation, which was made with the previous concurrence and approbation of the King, who had himself taken several steps towards the promotion of it; which had been already accepted by His Majesty's Government; and under which, commissioners had been named, of whom your Excellency was one: and all this without giving any explanation whatever of so extraordinary a circumstance, or appearing to recollect that any such arrangement had ever taken place, or been contemplated. I repeat to your Excellency that I wish to put the most favorable construction possible upon all the acts of His Majesty's Government, which I am called to notice; but I can hardly flatter myself that this proceeding will be viewed by the President and Congress of the United States as a proof of the friendly dispositions towards them, which are uniformly professed by the Spanish Government, and which your Excellency continues to repeat on the present occasion.

Your Excellency will also excuse me for remarking that the determination announced in your note is not only at variance with the forms usually observed in the intercourse between civilized nations, and with the previous proceedings of His Majesty's Government upon the same subject, but with the tenor of the notes to which your Excellency professes to reply. The proposal made to His Majesty's Government in these notes, is not to allow certain claims presented by the President of the United States, in the name of his fellow-citizens, but to open a negotiation upon the mutual claims of this description, made by the two Governments upon each other, with a view to the liquidation, balancing, and final settlement of the same. The only regular answer which can be given to such a proposal, is an acceptance or refusal of the proffered negotiation. It is impossible for the Spanish Government, proceeding in the ordinary method of transacting business, to declare, in answer to this proposal, that they will not allow the claims put forward by the United States: for they are not sufficiently informed of the details of these claims to be able to judge whether or not they ought to be allowed.

In the notes containing the proposal, and in the project of a convention accompanying it, some general indications are given of the nature and grounds of some of the claims; but these are not, and were not intended to be, stated with the extent and accuracy necessary to establish their validity: others of the claims are not even mentioned. It is, in fact, neither usual nor convenient to incumber the diplomatic correspondence of nations with these particulars, which are always necessarily voluminous.

The precise object of the proposed negotiation is to give the two parties an opportunity of comparing their views upon the subject of their respective demands, and ascertaining whether it be practicable to agree upon some general principles by which a liquidation and settlement of them may be obtained. Should they succeed in this, the details may be referred, with convenience, to a special commission; and it is only in this last stage of the process that either Government will have the means of judging whether the particular claims presented by the other are, or are not, of a nature to be allowed; unless this course be taken, or unless the claims are distinctly explained to the Spanish Government in some other way, it is impossible, as I remarked above, for that Government to judge whether they ought to be allowed, because, until then, they do not know what they are. If the mode of negotiation proposed by the United States were considered inexpedient by His Majesty's Government, the regular course would be to decline it, and to indicate some other, by which substantial justice might be better effected. A refusal to allow the claims of the United States, in answer to a proposal to negotiate upon those of the two countries, is obviously irregular in form. It amounts, in substance, to a refusal to negotiate; that is, a refusal to hear the representations of a friendly power, presented in a respectful and amicable form, upon subjects important to the interests of both Governments. Such a refusal leaves the complaining party no means of obtaining redress, but an appeal to force. I submit it, with confidence, to your Excellency, to decide whether this mode of receiving the suggestions of the United States be consistent with the friendly relations which have always happily existed between the two Governments, and which both have so deep an interest in preserving.

I venture to hope that your Excellency will feel the force of the above remarks, and that they will lead to a reconsideration of the decision announced in your Excellency's note, which, from its singular inconsistency with the previous proceedings of His Majesty's Government, as well as with the usual forms of international intercourse, and the just pretensions of the United States, must, I think, have been the result of surprise or accident. The natural method of terminating this business is to pursue the course already marked out, and open the negotiation, for which all the arrangements were long since made by the concurrence and co-operation of the two Governments. This is the mode of proceeding which was with reason expected by the United States, and the only one which holds out a fair prospect of bringing the question at issue to an early and amicable conclusion. In the mean time, with a view of satisfying your Excellency that the subject is not incumbered with so many difficulties as His Majesty's Government appear to suppose, I will take the liberty of subjoining here a few remarks upon the reasons given by your Excellency for refusing to consider these claims, and upon the nature of the claims themselves.

These reasons resolve themselves into the proposition that the King possesses the right of interdicting all foreign commerce with his American colonies: that the measures adopted by General Morales, at the opening of the war in 1821, were nothing more than an exercise of this right; and that, as their natural result was the capture and condemnation of the neutral vessels which contravened their provisions, the parties interested have no just grounds for complaint, or title to claim compensation. The objection supposes, of course, that the claim presented by the United States is

that of compensation for the loss of vessels which had been captured and condemned for carrying on a prohibited trade with His Majesty's American colonies.

The nature of this objection singularly illustrates the inconvenience of the method adopted by His Majesty's Government, of forming a decisive judgment of the nature and merits of this question upon the scanty and wholly preliminary notions furnished by the proposals made by the United States to negotiate upon it. Of the claims presented by the United States, one class is founded in the illegal proceedings of privateers, bearing His Majesty's commission, and for whose conduct His Majesty's Government are, of course, responsible. It is also the opinion of the Government of the United States, for reasons which I shall presently mention, that the capture of a neutral vessel for trading with the Spanish Main, at the time in question, would have been illegal. But it is very much doubted by my Government, whether this question, or any other of a political character, will arise in the course of the investigations and discussions to which the settlement of these conflicting claims will lead. The proceedings of the privateers were tainted at every stage, and, it is believed, in almost every case, with gross irregularities, the nature of which will be illustrated by a statement, which I shall presently lay before your Excellency, of the particulars of one of these captures, and which justify the claim for indemnity, without a recurrence, on either side, to any general or disputed principle. In the first project of a convention which I had the honor of transmitting to His Majesty's Government, an article was introduced, declaring, in substance, that such condemnations of vessels as had taken place at this period, on the ground of their having carried on a prohibited trade with the Spanish Main, should be considered illegal, and entitle the interested party to indemnity. This article, by which the Government of the United States did not intend, in the least, to call in question the King's right to prohibit all foreign trade with his American colonies, (as would have amply appeared in the course of the negotiation,) was put forward among the preliminary propositions, as one which, if agreeable to His Majesty's Government, might save trouble to the Commissioners of Liquidation, should any case occur which required a settlement of the principle decided by it. It is, however, as I have already observed, considered doubtful by the Government of the United States, whether any such cases will, in fact, occur; and the article was, therefore, not regarded as one of an essential character. When I found, from the verbal communications I had with your Excellency, that it was apparently viewed here as objectionable, I felt no difficulty in striking it out of the project, of which I submitted an amended copy, with this, among other alterations, with my note of the 10th of September, 1826. It appears, therefore, however singular the fact may be, that the only objection now stated by your Excellency, to the conclusion of a convention in the form proposed, applies to an article which was inserted in the first scheme, but which, upon being represented by your Excellency as inadmissible, was not insisted on, and was actually struck out of the second project.

Should the question of the legality of neutral commerce with the Spanish Main, at the period when these captures were made, in fact come up, it is not anticipated by the Government of the United States that there will be any material divergence between their views respecting it, and those of His Catholic Majesty's Ministers. It is not, and never has been.

the intention of the United States to call in question the right of the King to interdict all foreign trade with his American possessions. The right of regulating commerce at discretion, throughout their dominions, is inherent in all Governments, whether resulting, as your Excellency affirms, from a supposed right of property in those dominions, or from the safer and more generally acknowledged source of sovereignty. The King's right of interdicting foreign trade with his American colonies, whatever may be its source, has always been admitted by the United States to be real and incontestible. The only instances in which they have felt themselves bound to protect their fellow-citizens in trading with any part of Spanish America, have been those in which the King had himself renounced his right of sovereignty (or, as your Excellency expresses it, property) over some portions of these territories, or had, by his own act, expressly authorized the trade with others. The present case is believed by the President to be of the latter description. He conceives that by a series of public acts and proclamations of His Majesty's official representatives, preceding and following the period of the captures now in question, which have never been disavowed, but, on the contrary, confirmed and maintained by His Majesty's Government, the trade with the Spanish Main had been fully and freely opened to neutrals. A complete exposition of all the particulars of these proceedings would exceed the usual limits of an official note. It would probably form one of the topics of the proposed negotiation. It may be sufficient to remark here, that, by the treaty concluded in 1820, between General Morillo, as His Majesty's representative in this part of America, and General Bolivar, as the representative of the Independent Provinces, it was stipulated, that, if the war between the King and these Provinces were renewed, it should be conducted according to the ordinary rules of civilized warfare, which have never been regarded, even in the most embittered struggles, as justifying a complete interdiction of neutral trade. The commerce of neutrals with the Independent Provinces on this part of the Spanish Main was therefore authorized by the terms of this treaty; and the authorization thus given has been confirmed by subsequent acts of other representatives of His Majesty in America, and of the King himself. The blockade of all the ports on the Gulf of Mexico, declared by General Morales in 1820, was itself an acknowledgment and proof that the trade was not considered illegal: for, if it had been illegal before, it would have been superfluous to attempt to make it so by a new act. This blockade was formally revoked by His Majesty's decree, dated December 21st, 1822, which expressly recognises the legality of the trade with the Provinces in question, under the usual exception of articles contraband of war. These successive authorizations would of course have been valid while in force, had His Majesty even thought proper to disavow them, after recovering his absolute power, upon the overthrow of the constitution. But, so far was this from being the case, that one of His Majesty's earliest measures of importance, after his return from Cadiz, was the decree of the 9th of February, 1824, cited by your Excellency in the note before me, which maintains and extends to all the King's dominions in America the freedom of trade, which had been granted, by the acts previously recapitulated, to the Provinces on the Gulf of Mexico.

It results from this statement that the trade with these Provinces had been thrown open to the world by a series of public acts, and was a legal and authorized branch of commerce at the time when these captures were

made. It is worthy of remark, that your Excellency, in this very note of the 16th ult., in which the King's right to interdict all foreign trade with his American colonies is stated as a sufficient objection to the claim of indemnity on account of these captures, takes the same view of the subject that I have now taken, and represents the trade in question as having been at the time open to foreigners upon the ordinary principles of the law of nations. In the paragraph next following that in which the objection just alluded to is mentioned, your Excellency remarks, that the people of the United States were acquainted with the provisions of the treaty between the two countries, by which, in the event of a war between either of the powers and a third party, the subjects of the other are prohibited from carrying on a contraband trade with the enemy. The Government of the United States are no doubt aware of their obligations in this respect, and have no intention of demanding compensation for any property justly condemned as contraband of war. But a special prohibition of the trade in articles contraband of war supposes the liberty of commerce in general, which is also expressly stipulated by the treaty. "It shall be lawful for all and singular the subjects of His Catholic Majesty, and the citizens, people, and inhabitants of the United States, to sail with their ships from any port to the places of those who now are, or hereafter may be, at enmity with His Catholic Majesty, or the said United States, and to proceed from one enemy's port to another." After this stipulation, follows, in the next article, the usual exception of articles contraband of war, to which your Excellency alludes.

In representing these provisions as applicable, at the same time, to the trade between the United States and the provinces on the Gulf of Mexico, your Excellency recognises the general legality and freedom of that trade, unless (which can hardly be the case) your Excellency be of opinion that those parts of the treaty only are binding which impose obligations upon the United States, while those which contain stipulations in their favor are of no validity.

Your Excellency will perceive from the above explanations, that, should the question of the legality of the trade with the Spanish provinces on the Gulf of Mexico arise in the course of this discussion, it is not likely to lead to any difference of opinion between the Governments, of a nature to embarrass the liquidation of the claims. In reality, however, it is not thought probable by the Government of the United States, that this or any other question of a political character will come up. The proceedings of the privateers and prize courts at this period were in general, as I have remarked before, so grossly irregular, at every stage, as to violate directly the universally acknowledged principle of national law and justice, which secures to neutrals, under whatever pretext they may be captured, a fair and impartial trial, and entitles them to claim indemnity from the capturing power, if it be not granted.

In proof of this remark, and in illustration of the nature of this class of the claims on the part of the United States, which form the subject of the present negotiation, I take the liberty of stating to your Excellency the particulars of the case of the brig James Lawrence, which is one of the number.

The brig James Lawrence, belonging to James Ray, a citizen of the United States, residing at Wilmington, in the State of Delaware, sailed from the port of Philadelphia on the 14th of December, 1822, for La-

guayra, where she arrived early in the following month. She entered the port without interruption from any quarter; and having taken on board a cargo consisting of coffee, cocoa, and other articles, consigned and belonging to citizens of the United States, sailed from Laguayra, on the 16th of February, 1823, for Philadelphia. On the day succeeding, she was captured by the Spanish privateer Esperanza, and ordered for St. John's, Puerto Rico, where she arrived on the 27th of the same month. She was here libelled before the Admiralty Court, on the charge of having on board property belonging to the enemies of Spain. Upon this charge only, the trial came on. On the 7th of March following, a decree was made, by which the cargo was condemned as enemies' property, and the ship acquitted. The master of the brig immediately applied for a new trial, which he obtained; and in the course of which, he succeeded in proving, to the satisfaction of the court, that the cargo belonged wholly to citizens of the United States, and that the captors had taken from him and secreted his papers, in order to prevent him from establishing this fact upon the former trial. The court, after this second hearing, and on the 7th of April following, reversed the sentence, and condemned the captors to pay a fine of two hundred ducats for their fraudulent proceedings in regard to the papers.

The captors, however, not deterred by this check from pursuing their purpose, appealed from this sentence to the Supreme Audiencia, which sits at Principe, in the Island of Cuba, and were ordered by the Judge to give security, in the sum of 62,010 dollars, that they would obtain a reversal of the sentence within eight months from the 16th of August, the day on which the security was given. The captors, it appears, retained possession of the cargo; and the appeal, like the original libel, alleged no other cause of action against the brig or her cargo, excepting that the latter was enemies' property. Nothing was said of blockades or of interdicted trade; and it is evident that neither of these pretences had then been thought of, since on these grounds the ship would have been equally liable to confiscation with the cargo.

The master of the vessel arrived at Principe on the 20th of December, 1823, for the purpose of answering the appeal. The captors, however, did not appear; and after waiting till the limited time of eight months had expired, the master obtained from the court a certificate of their default, and departed.

Here, according to all the ordinary principles of proceeding in such affairs, the case was closed for ever, and in favor of the vessel. The captors, by failing to sustain their appeal, had forfeited the security which they had given at St. John's, and nothing remained but for the court to order the payment of it for the benefit of the owners. In the mean time, however, the court at St. John's had instituted a new series of proceedings in the same case, entirely at variance with their own previous acts, and in open violation of all the rules of law and justice. After granting to the captors, in the manner which I have described, an appeal to the Superior Court at Principe, of which appeal the owners had received due notice, and to which they appeared, the Judge of Admiralty at St. John's, upon a subsequent application of the captors to have the place of hearing the appeal changed, granted their request, and ordered the case to be tried before the Marine Court or Junta, sitting at the Havana. The owners received no notice, either of the application for a change in the Court

of Appeal, or of the granting of that application, and learned the facts only in a private manner. This circumstance alone stamps the subsequent condemnation with the character of complete illegality: but this was not the only one of the same description. The appeal was to have been prosecuted within eight months, commencing on the 15th of August, 1823. The appellants did not appear until the 16th of May following—a month after the limited time had expired; but although the owners, who had received private information of the change in the court, and had an agent present, represented that the captors were not in time, the objection was overruled, and the cause tried. Finally, by an act of injustice still more open and glaring, if possible, than either of the others, the court, on the 17th of September, 1824, reversed the former sentence, and condemned the ship and cargo, not as enemy's property, the charge upon which they had been tried, but, incredible as it may appear, for a wholly different one—that of trading with a blockaded port. Thus the property of the owners was taken from them under pretext of an offence, not only in itself entirely imaginary and groundless, but which had never been imputed to them up to the moment of the decision; against which they had no opportunity to defend themselves, and of which the court had of course, under the circumstances, no more right to declare them guilty than of treason, murder, or any other crime entirely foreign to the nature of the case and the previous course of the proceedings.

Such were the forms observed in the trial and condemnation of this vessel and her cargo; or rather such was the contempt which the court exhibited for all the forms usually observed on similar occasions in civilized countries. In order to found a just claim upon the Spanish Government for indemnity on account of the loss occasioned by these proceedings, it is wholly unnecessary, as your Excellency must perceive, to inquire into the legality of the blockade, under pretext of violating which, the vessel was finally condemned. Supposing her to have violated a regular blockade, it was the duty of the captors to prove the fact against her in a legal way; and if this was not done, the condemnation was equally injurious, whether the offence charged were real or imaginary. In this case, there had been four or five successive irregularities in the proceedings, any one of which was sufficient to invalidate the sentence and entitle the owners to indemnity. It is believed by the Government of the United States, that most, if not all the other cases are, in this respect, similar to that of the *James Lawrence*; and that it is very doubtful whether it would be necessary for the decision of any of them even to raise the question how far the blockade of the coasts of the Spanish Main, declared by General Morales, was entitled to the respect of neutral Governments.

Should it, however, be necessary to examine this question, it is not apprehended by the Government of the United States, that there could arise any material difference of opinion respecting it between the two powers. The principles of national law, which regulate the subject of blockades, are perfectly well known, and generally acknowledged; nor is it understood that it is the wish or intention of the Spanish Government to set up new ones. The most important of these were too openly violated in the case of the pretended blockade of Gen. Morales to leave room even for an argument in favor of its legality. A blockade, in order to be legal, must be publicly declared by the Government of some belligerent power, and formally notified, under the authority of such Government, to those of neu-



trials. The pretended blockade in question was never declared or notified to neutral Governments by that of Spain. This defect alone was sufficient to deprive it of all pretensions to a regular character. Secondly, A blockade, having been regularly declared and notified, must, in the next place, in order to be entitled to respect, be duly enforced : that is, a sufficient naval armament, consisting of at least one or two ships of war, must be actually stationed at the entrance of the port which it is intended to close. But it is perfectly notorious that the Spanish authorities had not, at the time in question, above one or two armed ships in the whole extent of the Gulf of Mexico, and that these were not stationed at the entrance of any one particular harbor. The pretended blockade, therefore, as it was never either regularly declared or notified, was also never, for a moment, or at any point, regularly enforced, and was, of course, destitute of every appearance of a legal character. It seems to have been intended by General Morales as an imitation, in a small way, upon his own authority, of the extravagant pretensions advanced by some of the great maritime powers during the late European wars ; and had it not been made a pretext for the wanton and cruel spoliation of many innocent individuals, would have been a fit subject for derision, rather than respect or observance.

The principles and facts which I have here stated in regard to the blockade by General Morales, are, of course, familiar to the Spanish Government, which is too just and enlightened not to acquiesce in the conclusion which has been drawn from them by that of the United States. There is, indeed, the less reason for insisting at great length upon this point, that it may not only probably not come up in the course of the negotiation, but that the blockade was revoked by the King himself, under circumstances amounting to an admission of its illegality. By his decree of December 21st, 1822, His Majesty raised the blockade, in compliance, as is expressly stated, with the representations of the neutral powers who had suffered by its operation, and recognised the liberty of neutral trade with the Independent Provinces, under the usual exception of articles contraband of war. At about the same time, a convention of mutual indemnities was concluded by His Majesty with the British Government, the principal object of which is understood to have been to provide for making compensation to British subjects, whose property had been seized and condemned under pretext of the blockade in question. These proceedings amount to a disavowal of it, and are considered by the Government of the United States as affording a precedent which entitles them (independently of the essential justice of their claims) to expect a similar arrangement in behalf of their fellow-citizens. In regard to this subject, your Excellency remarks, in the note before me, that the convention with Great Britain, now alluded to, was concluded by His Majesty's Government during the period of the Constitution, and is therefore to be viewed as null and void, and as not furnishing a precedent for similar proceedings towards other powers. I must be allowed to express my surprise that your Excellency should consider such an explanation as likely to be satisfactory to the President and Congress of the United States, since you cannot suppose them to be uninformed that one of His Majesty's earliest acts, after the overthrow of the Constitution, was the formal confirmation of the Convention alluded to ; that its preliminary provisions were immediately carried into effect by the appointment of commissioners on both sides to liquidate the respective claims of the contracting parties ; and that negotiations for the adjustment of difficulties that occurred

in the course of the proceedings have been repeatedly resumed, and are at this moment actually in progress at London. All these subsequent acts, performed since His Majesty's recovery of his absolute power, and when he has been, as your Excellency remarks, at the head of a legal and circumspect administration, are so many confirmations of the justice of the original convention, and so many new admissions of the illegality of the captures for which it was intended to afford compensation. It is impossible for the Government of the United States not to consider these proceedings towards another nation, under circumstances precisely similar, as greatly strengthening their essentially rightful claim to the same measure of justice.

In the case of the *James Lawrence*, of which I have taken the liberty to give your Excellency an account in detail, there was this additional irregularity and injustice in the proceedings of the Court, that the pretended blockade, for a violation of which the vessel was condemned, had been formally revoked by the King, and declared by the Spanish authorities in the West Indies to be no longer in force, before the time of the capture. The decree of revocation was brought out to Puerto Rico by a British frigate; and it was declared by the authorities of that island, upon the reception of it, that it was to be considered as taking effect from the day of its date, which, as I stated above, was December 21st, 1822. Two or three vessels belonging to citizens of the United States, which had been condemned for breaking the supposed blockade at periods subsequent to that date, were accordingly restored at once. The *James Lawrence* was then on trial before the Admiralty Court at St. John's; but not being charged, as I have already observed, with a breach of the blockade, she could not take advantage of the decree of revocation. When the case was brought, by appeal, before the Marine Junta at the Havana, in the way I have described, that tribunal, with the same open disregard for the forms and principles of justice, which had marked every stage of their proceedings, declared the blockade to be in force, notwithstanding the King's decree by which it was revoked. The pretence alleged was, that the decree did not take effect until it had been published by General Morales, which was not until the 8th of March, 1823, as if the Court could be supposed to be ignorant that notifications of the commencement and termination of blockades are regularly made by Governments to each other, through the medium of their Ministers of State, and in that way only; or as if the attestation of General Morales, a personage unknown to foreign powers, could add any weight to that of the Secretary of State, whose official character they were authorized and bound to acknowledge. It was in vain that these considerations, however obvious, were urged upon the attention of the Marine Junta. It was in vain that their own official counsellor, the Oidor of Marine, advised them strongly to confirm the decree of the Judge of Admiralty at St. John's, Puerto Rico, and acquit the vessel, assuring them that the port of Laguayra was not in a state of blockade when she entered it. In vain did two of the most respectable members of the Junta express the same opinion. The majority were bent upon their purpose, and the *James Lawrence* was finally condemned.

It only remained for the Court, in order to fill up the measure of their iniquity, to attempt to deprive the owners of the advantage of an appeal, which they did, and with success. The owners were entitled by law to an appeal to the Supreme Court sitting at this place, without giving security

to the captors ; but the Junta refused to allow them this privilege, and compelled them to enter into bonds to indemnify the captors, in the event of failure, for all the damages which they might suffer by the further prosecution of the cause. The Oidor again interposed, and assured the Court that their proceedings were illegal, and the Court a second time set at defiance the advice of their own official counsellor. The owners, meanwhile, being unable, in the state of impoverishment to which they had been reduced by the loss of their ship and cargo, to pay the enormous costs, and furnish the large security, which were so unjustly required, were compelled to abandon their appeal, and throw themselves upon the protection of their own Government.

Such, sir, are the circumstances, in detail, of one of the cases of spoliation on which the claims of the United States are founded. They will serve to give you an idea of the general complexion of the rest; and will enable His Majesty's Government to judge how far the reasons assigned in your Excellency's note for refusing to accede to the propositions of the United States, can be regarded as satisfactory.

You will perceive that the general question of the King's right to interdict the trade with the colonies is not in any way involved in the merits of the case, which rest upon the gross and repeated irregularities in the forms of the proceedings. You will perceive, in this case, that the ship was captured, in the first instance, in the most vexatious manner, and brought to trial upon a charge for which there was not a shadow of foundation, under circumstances of fraud and oppression, on the part of the captors, which called forth the animadversion of the Court itself; that, having obtained an acquittal with costs and damages, the owners were again brought to trial, and without notice; condemned for an offence with which they were not charged; condemned for breaking a blockade which had been revoked before they left the United States; and, finally, deprived of their right of appeal; while the captors, whose conduct had been, from the beginning, fraudulent and vexatious, and had been recognized and punished as such by the court itself, were treated at every subsequent stage of the process with illegal indulgence. In all these proceedings, there is no question concerning general or disputed principles of public law. When the Spanish Government refuse to grant satisfaction in cases of this kind, on the ground that the King has a right to interdict trade with his colonies, it can only be because they have somewhat hastily prejudged, upon a mere proposal to negotiate, the merits of claims, concerning which they could have, and had, in fact, no correct information in detail. Without contesting the King's right to interdict trade with his colonies, it is equally certain that neutrals, when captured by Spanish privateers, have a right to a fair trial; and that, if they be deprived of their property without it, they have a right to claim compensation of the Spanish Government. Such is the character of the greater part, and probably of the whole of the claims now presented by the United States.

Your Excellency will not consider it unnatural that acts of injustice, so glaring as those which I have now detailed, committed in time of profound peace by the agents of a professedly friendly power, in the neighborhood, and almost within view of the coasts of the United States, upon their unoffending citizens, should have excited a strong sentiment of indignation and alarm throughout the country. As an evidence of the character and degree of this feeling, I take the liberty of informing your

Excellency of the proceedings that took place in regard to the same case of the James Lawrence, of which I have stated the details above. The parties interested in this vessel addressed a memorial to the Senate of the United States, representing the injuries they had suffered from the Spanish authorities, which was referred by the Senate to the Secretary of State, (now President of the United States) who made thereupon the following report :

“ DEPARTMENT OF STATE,

“ *Washington, February 2, 1825.*

“ The Secretary of State, to whom, by a resolution of the Senate of the United States, was referred the memorial of James Ray and others, owners of the brig James Lawrence and cargo, captured by a Spanish privateer, and carried into St. John's, Puerto Rico, praying the interposition of the Government, with the documents accompanying the same, to consider and report thereon, has the honor of reporting :

“ That the case of the James Lawrence is one of those of flagrant outrage upon the property of the citizens of the United States, upon which the Executive Government of the United States have, for the last three years, constantly applied near the Spanish authorities exertions for reparation equally strenuous and unavailing. That the capture, in the first instance, was illegal; and that the proceedings of the Court of Appeal, condemning the property, were irregular, cannot be doubted. A *last appeal* to the justice of His Catholic Majesty is all that remains practicable in this case, short of measures which, by authorising *reprisals*, would assume upon the United States themselves the task of dispensing to their citizens that justice which has hitherto been sought from the Spanish authorities in vain.”

With this *last appeal*, having been appointed by the President of the United States their Minister at this court a few weeks after the above report was made, I had the honor to be entrusted, and have now been urging it with unremitting assiduity for nearly three years or more. The acceptance by His Majesty's Government, soon after my arrival, of the proposals of the United States to negotiate upon this subject, authorised the expectation that it would be amicably settled without delay, and prevented for the time the farther contemplation of the more vigorous measures alluded to at the close of the above report. The unaccountable delay that has since occurred in the progress of the negotiation has gradually diminished that expectation; and the answer which I have now received from your Excellency, if regarded as final, destroys it altogether. Such, however, is the singular inconsistency of this answer with the former proceedings in the same affair, with the usual modes of international intercourse, and with the tenor of the notes to which it professes to reply, as well as with the just demands of the Government of the United States, that, as I have already remarked, I cannot but view it as the result of surprise or accident; and have accordingly felt myself justified in addressing to your Excellency this final representation. I still venture to hope that His Majesty's Government, upon perceiving, as I think I have distinctly shown above, that the answer now given by your Excellency does not meet, in any degree, the merits of the claims, and is founded upon an entire misconception of their character, will be induced to give the subject a reconsideration, and by continuing the negotiation agreeably to the ar-

rangements already made, to obtain an opportunity of acquiring the correct and detailed notions upon which alone it is possible to make up a just and satisfactory judgment. After the long delay that has already occurred, your Excellency will not, I hope, be surprised if I add that I shall wait with some impatience for a reply.

Before I close this communication, I will briefly advert to one or two passages in your Excellency's answer, which seem to require some notice, although they have no immediate connexion with the principal subject. In one of the two to which I allude, your Excellency, while disclaiming any intention to recriminate upon the Government of the United States, remarks that that Government has too much good faith not to admit that the King might justly take offence at the conduct of certain citizens of the United States, who, in contravention of solemn treaties, and for the sake of private emolument, have directly, and with impunity, nourished the flame of insurrection in the colonies. In the other, it is stated that the measures adopted by His Majesty's Government for the suppression of piracy will probably be effectual, provided the Government of the United States, on their side, take care to prevent the repetition, within their jurisdiction, of the building, equipment, and armament of vessels for the use of the pirates, which has heretofore taken place, within, as your Excellency is pleased to say, my knowledge, notwithstanding the continual remonstrances of His Majesty's Legation in Philadelphia, and in violation of the neutrality promised by the United States.

I cannot but remind your Excellency, in reference to these passages, that vague and general charges of this description, unaccompanied by evidence, or even detailed statements of any particular facts, can hardly lead to any useful results, and have no tendency to promote a good understanding between the two countries. They can only be met by equally indefinite assurances that it has always been the wish and intention of the United States to observe a fair neutrality in the war between Spain and her colonies. Far from admitting, as your Excellency seems to suppose they do, that their fellow-citizens have directly, and with impunity, fed the fire of insurrection, they believe, on the contrary, that much less direct encouragement has been given to the cause of the Independent Provinces than might fairly have been considered, under the circumstances of the case, as natural and unavoidable. Any representations which may be made to the Government of the United States, by order of His Majesty, against their own immediate acts, or those of agents for whose conduct they are responsible, will always receive the most respectful attention; and, when properly substantiated, will be followed by suitable measures of redress. In the proposals now made to negotiate on the subject of the mutual claims of the two Governments for indemnities, it is one of the objects of the Government of the United States to give a fair consideration to any well grounded complaints of the description alluded to, which His Catholic Majesty may have to offer; and it appears singular that your Excellency, at the moment of rejecting these proposals, and with them the tender of honorable satisfaction for any real injuries that may have been sustained by Spain, should deem it proper to renew the same complaints in the same vague and indefinite terms. As respects the passage in which your Excellency is pleased to appeal to my personal knowledge, in confirmation of the assertion that vessels have been built, equipped, and fitted out, in the ports of the United States, for the use of the pirates, *in vio-*

lation of the promised neutrality, and notwithstanding the repeated remonstrances of His Majesty's Legation at Philadelphia, I can only reply that I am wholly unable to form any conjecture of the circumstances to which your Excellency alludes. I am not aware that any vessels have ever been built, equipped, or fitted out, in the ports of the United States, for the use of the pirates, or that the Spanish Legation at Washington have ever made any complaint to that effect; and the intimation that the Government of the United States have promised to observe neutrality towards the pirates is of so extraordinary a character, that I must presume it to be the result of some accidental error in the composition of the note. Should your Excellency think proper to furnish me with a more precise statement of the facts intended under these general charges, I shall, with much pleasure, give you in return any additional explanations that may be within my power.

I avail myself of this occasion to assure your Excellency anew of my sincere respect and esteem.

A. H. EVERETT.

MADRID, February 13, 1828.

**MESSAGE**

FROM THE

**PRESIDENT OF THE UNITED STATES,**

TRANSMITTING

(Pursuant to a resolution of the House of Representatives, of the 16th inst.)

INFORMATION IN

**Relation to Abuses committed upon the persons**

OF THE

*Officers and Crews of American Vessels*

**AT THE HAVANA,**

**AND OTHER SPANISH PORTS IN AMERICA;**

AND

**THE CONDUCT OF THE SPANISH AUTHORITIES**

**IN RELATION THERETO.**

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JANUARY 31, 1822.

Read, and ordered to lie upon the table.

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WASHINGTON :

PRINTED BY GALES & SEATON.

1822.

CHAPTER 10

The first part of the chapter discusses the

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**TO THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES:**

In pursuance of a resolution of the House of Representatives, of the 16th instant, requesting information with regard to outrages and abuses committed upon the persons of the officers or crews of American vessels at the Havana, and other Spanish ports in America, and whether the Spanish authorities have taken any measures to punish, restrain, or countenance such outrages, I herewith transmit to that House a report from the Secretary of State, containing the information called for.

**JAMES MONROE.**

WASHINGTON, 30th January, 1822.

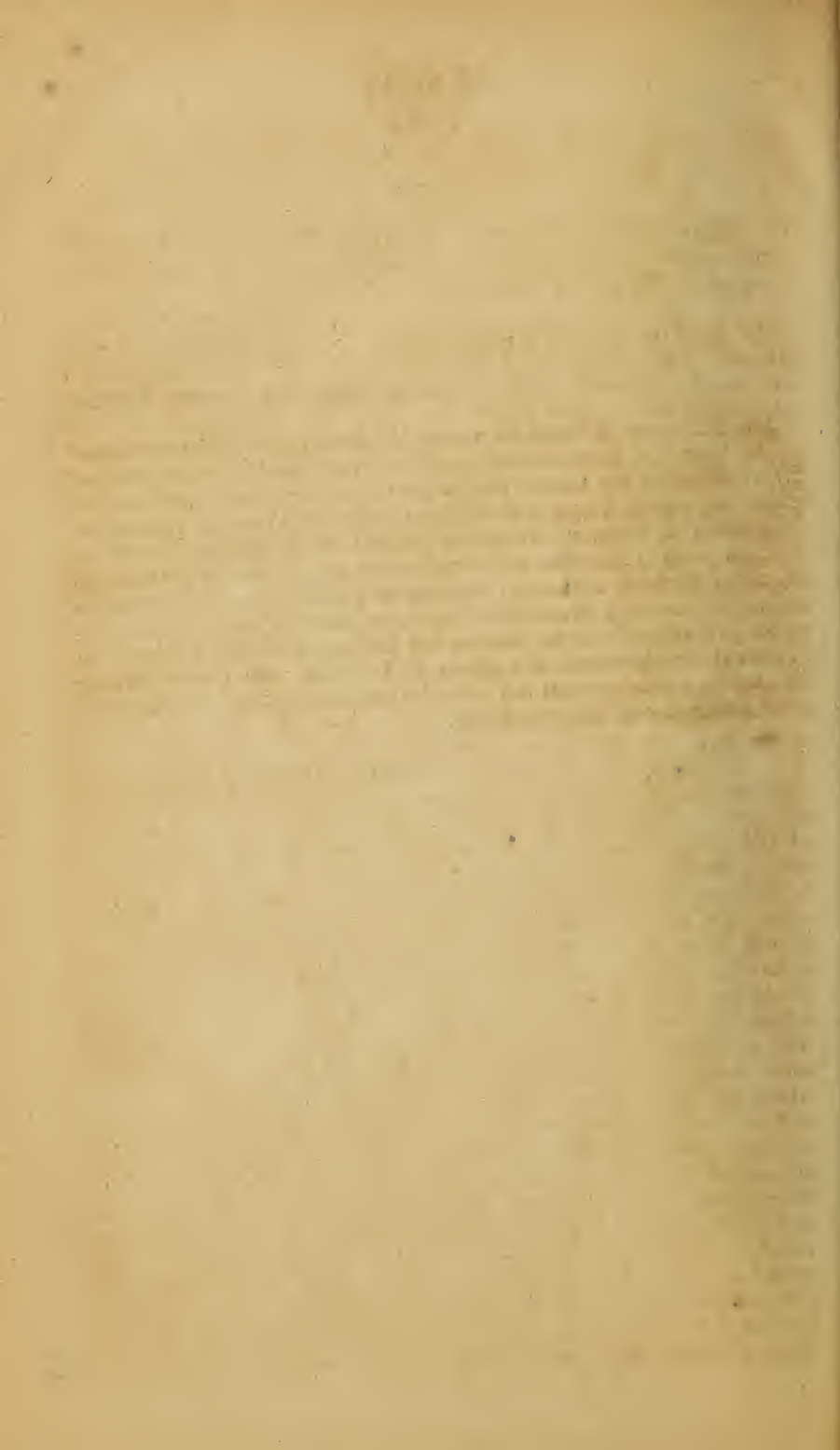


## DEPARTMENT OF STATE,

*Washington, 30th January, 1822.*

The Secretary of State, to whom has been referred the resolution of the House of Representatives, of the 16th instant, requesting of the President of the United States the communication of information respecting any outrages and abuses committed upon the persons of the officers or crews of American vessels at the Havana, or other Spanish ports in America, and whether any measures have been adopted, under Spanish authority, tending to punish, restrain, or countenance, either such personal outrages, or piratical depredations, upon the property of our merchants, has the honor of submitting to the President the statement of captain B. I. Shain, with accompanying documents, containing all the information possessed by this Department, embraced by that resolution.

JOHN QUINCY ADAMS:



*The following is a statement of the outrage committed upon the American schooner Ajax, of Philadelphia, commanded by myself, while laying in the port of Havana.*

On Sunday, 25th November ultimo, I left the counting house of Messrs. Blair, Aizpurua & Co. about one o'clock, P. M. I had with me my accounts, which I had just received, together with the schooner's papers, and intended to sail next morning, wind and weather permitting. Soon after I got on board the schooner, I began to examine my accounts, in case there should be an error, it might be corrected before I sailed. I had been thus engaged but a little time, when I heard Mr. Joynes, the chief mate, say, in Spanish, "Go on shore," which he repeated several times. I then went on deck, and asked him what was the matter. He said there had two soldiers come on board, who asked to light their cigars, and he himself gave them fire. After they had lighted their cigars, they addressed themselves to one of the people, who was laying on the main hatch in a state of intoxication, (but quiet and without molestation,) and when they found he could speak some Spanish, they told him he was a Spaniard, and they would have him put on board the guard ship. He told them he was no Spaniard. They insisted he was. Mr. Joynes said he then told them the man was no Spaniard; that he was an American, and one of the people belonging to the schooner. They then drew their swords. Mr. Joynes said he then picked up my cane, which was near him, and made them go on shore, telling them to go on shore, as before mentioned. I then went down below to my accounts again, but had been there but a few minutes, when Mr. Joynes came to the companion door, and asked me what should be done; that there were a number of soldiers, who seemed determined to come on board. I told him not to let them, that I would not suffer them to come, saying they have no business here. I then gathered up my papers, put them away, and went on deck, with a cutlass in my hand, being of opinion they wished to commit some violation. I walked forward to the bows of the schooner, to which place the soldiers had nearly advanced. I forbid them to come on board, telling them not to trouble me; but they, regardless of my intreaties, were determined to come. I, seeing their intention, went aft and got one of my pistols; Mr. Joynes did the same. We both went forward to the bows of the schooner, and desired them, again and again, not to come on board; but they advanced to the railing, and were about to jump on deck, when I cocked my pistol and presented it, telling them at the same time not to board me, if they did, I would blow them through. They, finding me resolute, retreated to the foot of the stage again, where they were joined by some other soldiers, who stood there and urged them on, and called them cowards to

let the Americans drive them, and tried to force them back again; they then, however, sent for a reinforcement of soldiers, who, when they came to the foot of the stage, attempted to force their way also, but Mr. Joynes and myself stood firm at the top (or head) of the stage, determined, if possible, to defend the decks, so that they dared not approach us; they then sent for a guard of soldiers, who, when come, the captain of which commanded me to come on shore, which command I refused to obey, saying, at the same time, I had no business on shore, that my place was on board my vessel; he, however, commanded me several times very peremptorily to come on shore, which command I continued to disobey, telling him at the same time, if he had any thing to say to me to come on board, that I would respect him and treat him politely; he then sent a young man on board who could speak a little English, who told me, the captain of the guard said, if I did not come on shore, he would send his guard on board and take me to prison. I told the young man to tell the officer, I had done nothing for which I should be put to prison—that I was on board my vessel, and had not been on shore, nor would I go unless I should be taken there; the young man went and spoke to the officer, who together with his guard went away; I then sent to the house of my consignees, informing them of my situation, and requested they would come to the vessel immediately, which they did. By this time there was a great number of people, soldiers, and common rabble of the streets, besides a number of boatmen collected on the wharf before the schooner. I related the circumstance to my consignees, all that had transpired, as I have now done. They asked me if that was all I had done? I said it was. They advised me to haul the schooner astern from the wharf, seeing the people appeared to have a design against her; I immediately gave orders to do so, having previously taken on board the stage. As soon as the mob saw I was about to leave the wharf, and supposing their designs (I believe) might be frustrated, they called out, not to let the vessel move, making use of the most threatening and shameful language, and laying hold at the same [time] of the forward rigging, crying out, “On board, on board; we will not let the American rascals go;” we, however, succeeded in hauling her astern, although there were at that time but three men, besides myself and the little boy on board; but the wind blowing very fresh, canted her head to port, and the jib-boom getting foul of the topping-lift of a small Spanish schooner which lay on our larboard side, the Spaniards ran from the wharf on board her, and while we were endeavoring to clear the Ajax and haul her astern, they boarded us from the Spanish vessel; we not being able to clear haul her astern, and prevent them from boarding all at the same time, there being then but four on board in all, and only Mr. Joynes and myself who made any resistance. In the course of one minute my decks were full of Spaniards, led on by a number of soldiers, two of which were in front, who had long knives or daggers. The one on my left hand made a pass at me with his knife, or dagger. I repelled him with my cutlass in my left

hand. Perceiving he was preparing to make a second attempt, I fired my pistol, but missed my object, although I shot a soldier behind him. Mr. Joynes, seeing the imminent danger we were in, fired his pistol, and, I believe, killed the soldier I fired at. At this moment we were completely surrounded by a great number of soldiers and others, and being aft, by the companion way, and under the awning, where we had no possible means of defending ourselves. In this situation we were attacked with swords, knives, spars, sticks of wood, and stones, which they had previously thrown on board from the wharf. Mr. Watson, my second mate, had his head cut with the cook's axe. They stabbed the steward of the ship Lucius, of Charleston, who died in about two days. They cut off one man's arm, all but the sinews, belonging to the brig Cyno, of Philadelphia, and split his mouth open. They beat Mr. Joynes with sticks and spars, and threw him overboard, where he was pursued by boatmen, who struck at him in the water with their oars, and had, at the same time, their knives in their mouths to kill him with as soon as they should hit him with their oars and prevent his swimming. He, however, being a good swimmer, dove under water, and thereby escaped their blows. They were at one time so near him that he was obliged to dive under their boat, and stayed so long under water that they thought he was drowned, but at length he came up near the guard boat, the officer of which took him in and saved his life. While I remained on board in the hands of these barbarous savages, who most cruelly beat my head and shoulders with stones and sticks, they cut the third finger of my right hand almost off; also my right wrist and my right arm; they stabbed me on the top of my breast bone, in my right shoulder, and in my back and stomach, and laid my head open with a cutlass, or sword, in two places, about five inches long each, to the bone, and fractured my skull. They also cut my cheek through into my mouth, nearly to my ear, and nearly cut my right eye out. As soon as they thought they had killed me, (for I fell apparently dead at their feet,) they began to plunder the vessel, cut away and carried off all her running rigging; stole the long boat, six pistols, and two cutlasses, broke open the harness tubs, and stole all the beef and pork in them; took away all our fowls; stole every article of cabin furniture, such as dishes, spoons, cups, saucers, knives, forks, &c. with all the cabin stores, besides many other things, too numerous to mention. They stole from me all my clothes, not leaving me a single shirt; they stole Mr. Joynes' clothes also, and even went into the fore-castle and robbed the people of theirs. While I was thus weltering in my blood, suffering, if possible, a thousand deaths, in my agony I lifted my head, and raising partly up, supported myself in a sitting posture on the deck by my hands, one on each side of me, I was accosted by a soldier and asked if I was the captain. The deck seemed to be more quiet, and the mob appeared in some measure to have retired; though at that time I could not see, I presumed him to be my friend, come to relieve me: I answered, yes. He instantly took his sword, which had a metal scabbard, as I heard it rattle, and driving

it at me struck me with the end of it on the collar bone, and knocked me flat on the deck again. He then robbed me of the little change I had, and took from my fob my watch, but finding some difficulty in getting it from the fob, took his knife and cut it off. Who this soldier was I know not, but am of opinion, from the voice, that he was the captain of the guard who first commanded me on shore. After they had finished their plunder, and the mob gone, the government sent Mr. Joynes, one of my people, and a little boy, to prison; my second mate, the steward of the ship Lucius, and the man belonging to the brig Cyno, to the hospital. During all this time I was left lying on the deck. There was, however, afterwards a guard sent for me, who made me get up from the deck and climb over the side of the vessel and get into a boat which was alongside to receive me, but not being able to support myself, fell from the side of the schooner partly into the boat and partly into the water, but finally got into her; then they took me to a small droger which lay at the wharf, and made me go on board and walk to the gang board which led on shore. Knowing it was impossible to walk the board to the wharf, I sat down on it and tried to haul myself along, when one of the gang behind me pushed me along like a log. When I landed on the wharf I was made to get up and walk about 150 yards to a volante. I was told to get into it, and they drove me off to the hospital, where my second mate and the steward of the ship Lucius had already arrived; a wretched place, enough to make a well man sick. The doctor of the hospital, considering me mortally wounded, threw a bundle of rags about my head, with as little ceremony as a butcher in our market would wrap up a shin of beef to send to a customer; and when he came to the wound in my stomach he thrust his fore finger into it up to his hand, and then folded up a piece of rag, as if he were going to stop the mouth of a bottle, and screwed it into the wound. In this situation I was laid on a bedstead which had boards for its bottom, with something like a pillow to support my bruised and cut head. I had lost much blood, and had lain before the door of the hospital until I was almost chilled to the heart, so that my teeth and jaws rattled; I begged for something to cover me, but could get nothing until a friend came to the door, and finding me freezing for want of something to cover me, ran home and got me something, but when he came with it to the hospital door, it was with difficulty he prevailed on them to let me have it. In this place I remained until about eleven o'clock the next day, when Don Francisco de P. Hornillos, obtained permission, on his own responsibility, to remove me to a sick-house, attended by a number of gentlemen, some of whom went for a surgeon to dress my wounds, and brought Dr. Benjamin Huger, surgeon of the Marine Hospital in Charleston, S. C. residing at this time in Havana for his health. When he saw me, he said he was astonished, from the appearance of my wounds, that I had not died. Mr. Joynes and the man that was in prison, were not released until the following Saturday afternoon, being nearly eight days in prison; about two days of which time, he said he was without any thing to eat, and, I believe, nothing to drink. We, however, got information to



Don F. D. P. Hornillos of his situation, who advanced him a doubloon, with which he was enabled to buy something to support nature, although he was compelled to pay at the rate of a dollar for only about an ounce of beef, and for other things he wanted in proportion. After he heard I was not dead, he was desirous to write to me, and had to pay, he said, one dollar for the sheet of paper. Mr. Joynes told me, he was informed by the officer of the guard at the prison, that the officer who commanded me to come on shore, intended, if I had complied with the order, to have given me up to the mob to do with me as they pleased. Mr. Joynes, my chief mate, Mr. Watson, my second mate, and the man belonging to the brig Cyno, were released on the Saturday following, December 1st. The two latter were brought to the sick-house, where I was; Dr. Huger was called to attend Mr. Watson, as well as myself, and when he saw him, he said he believed he could not live; he, however, survived until Friday 6th, when he died. Such was their inhumanity, that Mr. Watson did not have his wound dressed all the time he was in the hospital or prison.

B. J. SHAIN.

WASHINGTON CITY,

January 9th, 1822.

WASHINGTON COUNTY, } 9th January, 1822.  
 District of Columbia, }

Personally appeared before me the subscriber, one of the justices of the peace in and for the county and district aforesaid, Captain Benjamin Jones Shain, and made oath, on the Holy Evangelists of Almighty God, that the foregoing statement of facts is true, to the best of his knowledge and belief.

Given under my hand and seal, this ninth day of January, in the year of our Lord eighteen hundred and twenty-two.

[L. s.]

CHARLES W. WHARTON.

P. S. In relating the above narrative, I forgot to mention, that after I had got the vessel refitted and ready for sea, I was informed by Don F. De P. Hornillos, one of the gentlemen to whom I was consigned, that the schooner could not depart from the port with any one of the officers and crew on board who belonged to her previous to the outrage. I was therefore, notwithstanding the many petitions I sent to the Governor, under the necessity of shipping other officers and crew.

It was also decreed, that neither Mr. Joynes nor myself should leave the place under a heavy penalty; Mr. Joynes and myself were both compelled to leave the port clandestinely, or not at all; and, before the merchants would settle with me, or suffer me to depart, I was compelled to give a receipt, acknowledging myself accountable for the penalty or other charge that might arise in consequence of my departure, if exacted by the Spanish court.

B. J. SHAIN.

Subscribed and sworn to, this 10th January, 1822, before me,  
 R. S. BRISCOE, *Justice Peace.*

*Deposition of Don Francisco de Paula Hornillos.*

This witness declares and deposes, that, on Sunday, the 25th Nov. last, being at home, immediately after dinner, and just as he was preparing himself to go out riding, which was about the hour of five, he received information from his counting-house that some accident had occurred to the American schooner that was going to Philadelphia, and that his presence was necessary. That he immediately repaired to the wharf, to the place where the said schooner was, and there found a great concourse of people of all descriptions, close to the vessel, and the captain walking on deck, all in the greatest tranquillity and silence. That he walked on board, and asked Capt. B. J. Shain what had been the matter? to which he was answered, that some soldiers having gone on board of his vessel, and asked for fire to light a segar, the mate did politely hand it to them; and that they entered into conversation with a man on board that could talk Spanish. That the soldiers told the mate that that man was a Spaniard, who should not be in a foreign vessel, and that they were going to carry him off. That the mate objected to their doing so, as the man was not a Spaniard; and the soldiers insisting on carrying him off, he, the said Captain Shain, came out of the cabin, and observed the determination of the soldiers to carry that man away. That he would not consent to it; and, as they threatened to execute their intention, and to make use of their swords, he ran to the cabin, and, taking his pistols, made them run away out of the vessel. That, soon after, the same soldiers, with some others, wanted to come on board again, which he would not consent to; and, as they were walking up the stage, he approached the fore-part of the vessel, and ordered them to go off, when they were already on the gunnel, or he would fire into them with his pistols, if they attempted to violate or assault the inviolability of his house, which was his vessel, upon which they retired. That those soldiers then went, and complained or informed against him, to the officer of the guard at the treasury gate, who came before the vessel, at the time that he, the said captain Shain, was still walking on deck, which officer ordered him to come on shore. That to this command, he, Captain Shain replied, that he was on board his own vessel, and would not go on shore; but if he, the officer, had any thing to say to him, he might safely step on board, about which they disputed a short while; and finally, the officer went off, and captain Shain remained walking on deck. This witness declares, that, upon receiving this information from captain Shain, and seeing the crowd upon the wharf rather increasing, he advised them to loose his fasts, and carry his vessel out in the stream, apprehensive that the soldiers might return to molest him again, and chiefly to prevent some new accident occurring. That captain Shain immediately ordered the vessel away from the wharf, and when they were hauling her astern, a Spaniard, in the dress of a sailor, held her by the rigging of the bow-sprit, and cried out that the vessel should not quit the wharf, and that it was necessary to punish those rascals

of Americans. That he spoke to this man, requesting him to permit the vessel to go off, as he had so directed it, with no other view than to avoid any misfortune that might occur; telling him, also, that he had nothing to do with the vessel, to retire and not be the means of disturbing the peace. That he the witness, could not persuade this man, nor prevail upon him to quit his hold of the rigging, while he continued crying out against the Americans, and inviting the crowd to join and help him. That another man, likewise in sailor's clothes, joined the former one, taking hold of the bow-sprit rigging, and the witness also endeavored to persuade him by good means to abandon his task, but could obtain nothing else than repeated insults from both: and that, fearing some misfortune, he ran to the officer of the guard, at the treasury gate, and requested him to interpose his authority, towards getting the vessel away from the wharf, which he, the witness, had to beg the officer repeatedly to do; remonstrating, that otherwise, some misfortune would be inevitable. That the officer then, with some soldiers of his guard, went towards the vessel, but was of no service, as he either could not, or knew not how to make himself respected, as those two sailors, and some others that had already joined them, completely played with him, while a great part of the crowd, were already crying out in the most abusive language, and exciting the multitude, saying, *On board, on board, to those dogs, kill them!* That the witness, still being among the crowd, underwent repeated insults, from those sailors and several others, because he was still endeavoring to quiet them; at which time he found himself taken by the arm, by some person who requested him to go away, as he had observed the witness to be in great danger. That seeing the crowd and mob increasing, he ran up to the captain-general's, and requested him immediately to take some measures towards restoring the peace on the wharf; and hardly had he explained to his excellency the object of his request, when information arrived of the vessel having been boarded, and of the misfortunes that were the result of it: and as the bearer of that information gave also notice, that the captain had been wounded and nearly killed; the witness requested his excellency to order that the captain be delivered him, in order to give immediate attention to his dangerous situation on account of his wounds. That his excellency sent one of his adjutants with the witness to the wharf, for the purpose of delivering him the captain's person; and on arriving at the place where the vessel had been, he found her to have gone away astern of the other vessels, and that there remained only about six or eight persons on the wharf, one of whom was *El Zelador de Mar Dn. Frco. Baro*, who had formerly also made great exertions towards keeping the peace, and had much endeavored to pacify the first man, that had objected to the vessel's leaving the wharf; and who, having found there that same man, did arrest him, and sent him to jail. That at this time, the witness having been informed that captain Shain had been carried to the hospital, he applied there to get him out; but as they were actually dressing his wounds, and that it was dangerous at the moment to move him, he

was left there that night, and the next morning the witness took him out upon his receipt.

FRANCO. P. HORNILLOS.

HAVANA, *December 11th*, 1821.

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UNITED STATES COMMERCIAL AGENCY.

Be it known, that, on this eleventh day of December, in the year one thousand eight hundred and twenty-one, before me John Warner, commercial agent of the United States of America, at the city of Havana, personally came and appeared Dn. Franco. de Paulo Hornillos, subscriber to the foregoing deposition, who being duly sworn upon the Holy Evangelists of Almighty God, did depose to the truth of what is therein set forth.

In testimony whereof, I have hereunto subscribed my name, and [L. s.] affixed the seal of my office, at the city of Havana aforesaid, the day and year first above written.

JOHN WARNER.

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HAVANA, *December 13*, 1821.

This is to certify, I, Benjamin Huger, of Charleston, South Carolina, surgeon to the marine hospital in that city, at present residing in the Havana for my health, did, at the request of a friend, visit captain B. J. Shain, who had been wounded in a contest with several Spaniards. Upon examination, I found several wounds, three of which I considered highly dangerous. After much suffering, on the part of Captain S. he has recovered.

This certificate is given at his request. The mate of his vessel died in consequence of wounds received at this time.

B. HUGER, *S. M. H.*

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*Copy of a letter from B. J. Shain to the Secretary of State.*

PHILADELPHIA, *28th January*, 1822.

SIR: When I was at Washington a few days ago, you advised me to forward my memorial, addressed to the President, accompanied with the extent of the damage sustained from the Spaniards at Havana, in the late outrage committed against the schooner Ajax, her officers and crew, which I would have done before now, but owing to my indisposition I was not able to accomplish it; I, however, expect to have every thing ready to forward in the course of four or five days from this time. The amount of the damage will, I presume, be but little short of \$2,000, if not more, independent of our personal sufferings, which is more than can be expressed.

And am, Sir, with due respect,

Your most obedient humble servant,

Hon. J. Q. ADAMS.

B. J. SHAIN.





**MESSAGE**

FROM THE

**PRESIDENT OF THE UNITED STATES,**

TRANSMITTING

(In compliance with a resolution of the House of Representatives, of the 27th inst.)

INFORMATION IN RELATION TO THE

*Visit of the Naval Officer of the United States,*

COMMANDING IN THE WEST INDIES,

TO THE

**Town of Faxardo, Porto Rico,**

IN NOVEMBER LAST.

---

DECEMBER 29, 1824.

Read, and ordered to lie upon the table.

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WASHINGTON:

PRINTED BY GALES & SEATON.

1824.





*To the Speaker of the House of Representatives:*

In compliance with a resolution of the House of Representatives of 27th instant, requesting information explanatory of the character and objects of the visit of the naval officer of the United States commanding in the West Indies, to the town of Faxardo, in the island of Porto Rico, on the — day of November last, I herewith transmit a report of the Secretary of the Navy, with a letter from Commodore Porter, which contains all the information in possession of the Executive, on the subject. Deeming the transaction adverted to of high importance, an order has been sent to Commodore Porter to repair hither without delay, that all the circumstances connected therewith may be fully investigated.

JAMES MONROE.

*Washington. 28th Dec. 1824.*



## NAVY DEPARTMENT.

*December 28, 1824.*

SIR: In answer to a resolution of the House of Representatives, of the 27th instant, that "the President of the United States be requested to communicate to the House any information in his possession, not improper to be communicated, explaining the character and objects of the visit of the naval officer of the United States, commanding in the West Indies, to the town of Faxardo, in the Island of Porto Rico, on the — day of November last," I have the honor to enclose to you a copy of a letter from Captain David Porter to the Department, dated 15th November, which is the only information on the subject, in possession of this Department.

An order has been given that Captain Porter should return to this place without unnecessary delay. and an officer will sail from the United States to relieve him, and take command of the squadron, in a very few days, as soon as a vessel can be prepared for the purpose.

I have the honor to be,

Very respectfully,

Your most obedient servant,

SAM. L. SOUTHARD.

The PRESIDENT of the U. States.



## UNITED STATES' SHIP JOHN ADAMS,

*Passage Island, November 15, 1824.*

SIR: I have the honor to inform you that, on my arrival at St. Thomas', I was informed that Lieutenant Commandant Platt, of the United States' schooner Beagle, who had visited Faxardo, a town on the east coast of Porto Rico, about two miles from the sea, for the purpose of making inquiries respecting a quantity of dry goods supposed to have been deposited there by pirates, was, after being recognized as an American officer, by the proper authorities there, imprisoned and shamefully treated.

Indignant at the outrages which have so repeatedly been heaped on us by the authorities of Porto Rico, I proceeded to this place, where I left the ship, and, taking with me the schooners Grampus and Beagle, and the boats of the John Adams, with Captain Pallas and part of his officers, seamen, and marines, proceeded to the port of Faxardo, where, finding preparations were making to fire on us from the battery on shore, I sent a party of seamen and marines to spike the guns, which was done in a few minutes. as the Spaniards fled on the landing of the party. I then landed with two hundred men, and marched to the town, spiking on the way the guns of a small battery, placed for the defence of a pass on the road, and reached the town in about thirty minutes after landing: I found them prepared for defence, as they had received information from St. Thomas' of my intentions of visiting the place. I halted about pistol shot from their forces, drawn up on the outskirts of the town, and sent in a flag, requiring the Alcalde, or Governor, with the Captain of the port, the principal offenders, to come to me to make atonement for the outrage; giving them one hour to deliberate. They appeared accordingly, and, after begging pardon (in the presence of all the officers,) of the officer who had been insulted, and expressing great penitence, I permitted them to return to the town, on their promising to respect all American officers who may visit them hereafter. We then returned to the vessels, and left the harbor, after being at anchor three hours.

As we were getting under way, a number of persons appeared on the beach, bearing a white flag, and having with them some bullocks, and a number of horses, apparently laden, no doubt a present from the authorities of the place, which they informed me they should send me.

There is no doubt that our persons and our flag will be more respected hereafter, than it has been, by the authorities of Porto Rico.

Every officer and man, on this occasion, conducted themselves in a manner to meet my entire approbation.

I have the honor to be, very respectfully,

Your most obedient servant,

D. PORTER.

Hon. SAMUEL L. SOUTHARD,

*Secretary of the Navy, Washington.*



PORTS OF ENTRY—FLORIDA.

DECEMBER 30, 1828.

Read, and laid upon the table.

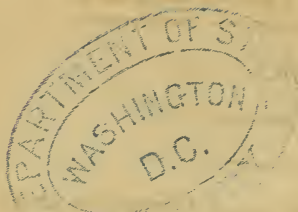
Mr. CAMBRELENG, from the Committee on Commerce, to which the subject had been referred, made the following

**REPORT:**

*The Committee on Commerce, who were instructed by a resolution of the 8th of December, 1828, to inquire into "the expediency of extending the privilege, secured to Spanish vessels in the 15th article of the Florida treaty, to all the ports of entry in the Territory of Florida," report:*

The article referred to provides "that Spanish vessels, coming, laden only with productions of Spanish growth or manufacture, directly from the ports of Spain or of her colonies, shall be admitted, for the term of twelve years, to the ports of Pensacola and St. Augustine, in the Floridas, without paying other or higher duties on their cargoes, or of tonnage, than will be paid by the vessels of the United States." It is proposed to extend this provision to the ports of entry established in that Territory since the date of the Florida treaty. If this were a treaty between the United States and Spain, mutually granting reciprocal advantages of commerce and navigation, there might be some propriety in giving to this article the most liberal construction, and in extending its provisions to all the ports in the Floridas. But it is of another character altogether. This temporary and special exemption of Spanish vessels and their cargoes from our alien duties, was one of the considerations conceded to Spain in the purchase of Florida. It is a stipulation which operates very unequally, and much against our own navigation. While Spanish vessels and their cargoes are thus admitted into Pensacola and St. Augustine without any alien duties whatever, American vessels are charged with discriminating duties of tonnage and impost in all the ports of Spain and her colonies. From the vicinity of Cuba to our coast, this is an important concession to Spain; and it must, until the expiration of the twelve years, tend to substitute Spanish for American vessels in the commerce between Cuba and Florida. The committee are of opinion that Spain has no right to expect from us more than a faithful compliance with the terms of the treaty; and that the change proposed would be injurious to our own navigation and to our revenue. They deem it inexpedient to extend the privilege secured to Spanish vessels by the Florida treaty beyond the stipulation which expressly limits their entry, free from alien duties, to the two ports of Pensacola and St. Augustine.

Harley











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