

THE
AMERICAN DIPLOMATIC CODE,

EMBRACING A COLLECTION OF

TREATIES AND CONVENTIONS
BETWEEN THE UNITED STATES AND FOREIGN POWERS:

FROM 1778 TO 1834.

WITH AN
ABSTRACT OF IMPORTANT JUDICIAL DECISIONS
ON POINTS CONNECTED WITH

Our Foreign Relations.

ALSO,

A CONCISE DIPLOMATIC MANUAL,

CONTAINING A SUMMARY OF THE

LAW OF NATIONS,

FROM THE WORKS OF

Wicquefort,
Vattel,

Martens,
Ward,

Kent,
Story, &c. &c.

AND OTHER

DIPLOMATIC WRITINGS ON QUESTIONS OF INTERNATIONAL LAW.

USEFUL FOR

PUBLIC MINISTERS AND CONSULS,

AND FOR ALL OTHERS HAVING OFFICIAL OR COMMERCIAL INTERCOURSE WITH FOREIGN NATIONS.

BY JONATHAN ELLIOT.

"It would be exceedingly to the discredit of any person, who should be called to take a share in the councils of the nation, if he should be found deficient in the great leading principles of International Law."—*Kent's Commentaries on American Law.*

IN TWO VOLUMES.—VOLUME THE SECOND.

WITH NOTES AND INDEXES.

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D. C.
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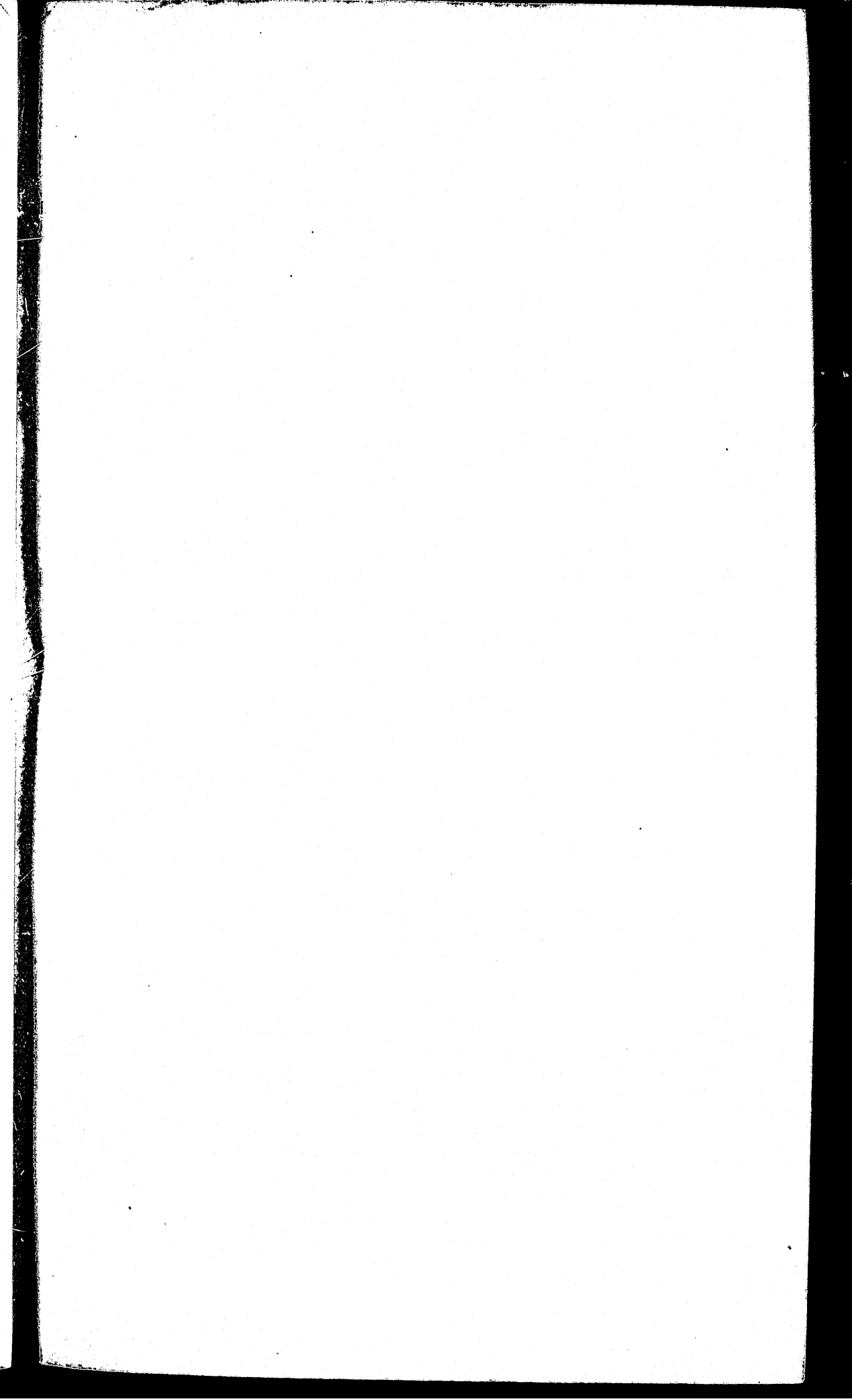
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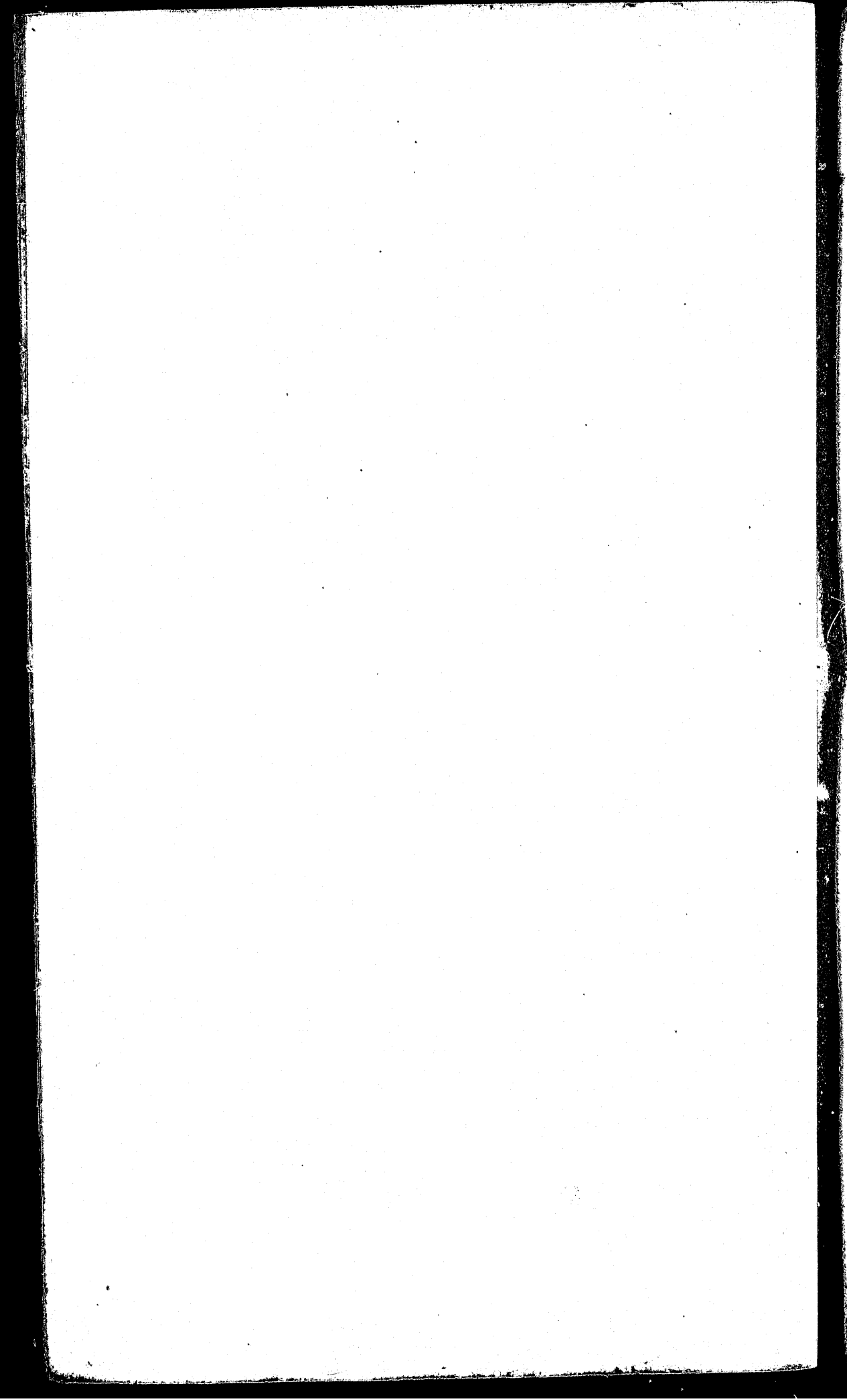
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DIPLOMATIC CODE

OF

The United States of North America.

PART III

**TREATIES WITH THE NEW NATIONS OF SOUTH
AMERICA.**

1824.
October 3.

TREATY WITH COLOMBIA.

By the President of the United States. A Proclamation:

Whereas a General Convention of Peace, Amity, Navigation, and Commerce, between the United States of America and the Republic of Colombia, was concluded and signed at Bogota, on the third day of October, in the year of our Lord one thousand eight hundred and twenty-four; which Convention, being in the English and Spanish languages, is word for word as follows:

Convencion Jeneral de Paz, Amistad, Navegacion, y Comercio, entre la Republica de Colombia y los Estados Unidos de America, Año de 1824.

En el nombre de Dios Autor y Lejislador del Universo.

La Republica de Colombia, y los Estados Unidos de America, deseando hacer duradera y firme la amistad y buena inteligencia que felizmente existe entre ambas potencias, han resuelto fijar de una manera clara distinta y positiva las reglas que deben observar religiosamente en lo venidero, por medio de un tratado, ó convencion general de paz, amistad, comercio y navegacion.

Con este muy deseable objeto, el Vice-Presidente de la Republica de Colombia encargado del poder Ejecutivo, ha conferido plenos poderes á Pedro Gaul, Secretario de Estado y del despacho de relaciones exteriores de la misma, y el Presidente de los Estados-Unidos de America á Ricardo Clough Anderson, el menor, Ciudadano de dichos Estados, y su Ministro Plenipotenciario cerca de la dicha Republica; quienes despues de haber canjeado sus espresados plenos poderes en debida y buena forma, han convenido en los articulos siguientes.

ARTº. 1º. Hebra una paz, perfecta, firme é inviolable y amistad sincera, entre la Republica de Colombia y los Estados-Unidos de America, en toda la estencion de sus posesiones y territorios, y entre sus pueblos y Ciudadanos respectivamente sin distincion de personas, ni lugares.

ARTº. 2º. La Republica de Colombia, y los Estados-Unidos de America, deseando vivir en paz y harmonia con las demas Naciones de la tierra, per medio de una politica franca, é igualmente amistosa con todas, se obligan mutuamente à no conceder favores particulares à otras naciones, con respecto à

1824.
October 3.

TREATY WITH COLOMBIA.

By the President of the United States of America. A Proclamation:

Whereas a General Convention of Peace, Amity, Navigation and Commerce, between the United States of America and the Republic of Colombia, was concluded and signed, at Bogota, on the third day of October, in the year of our Lord one thousand eight hundred and twenty-four; which Convention, being in the English and Spanish languages, is word for word, as follows:

General Convention of Peace, Amity, Navigation, and Commerce, between the United States of America and the Republic of Colombia.

In the name of God, Author and Legislator of the Universe.

The United States of America, and the Republic of Colombia, desiring to make lasting and firm the friendship and good understanding which happily prevails between both nations, have resolved to fix, in a manner clear, distinct, and positive, the rules which shall in future be religiously observed between the one and the other, by means of a treaty or general convention of peace and friendship, commerce, and navigation.

Rules of correspondence between the two nations.

For this most desirable object, the President of the United States of America has conferred full powers on Richard Clough Anderson, junior, a citizen of the said states, and their minister plenipotentiary to the said republic, and the Vice-President of the Republic of Colombia, charged with executive power, on Pedro Gaul, secretary of state and of foreign relations, who, after having exchanged their said full powers in due and proper form, have agreed to the following articles:

Negotiators:

ART. 1. There shall be a perfect, firm, and inviolable peace and sincere friendship between the United States of America and the Republic of Colombia, in all the extent of their possessions and territories, and between their people and citizens respectively, without distinction of persons or places.

Firm and inviolable peace, &c.

ART. 2. The United States of America and the Republic of Colombia, desiring to live in peace and harmony with all the other nations of the earth, by means of a policy frank and equally friendly with all, engage mutually not to grant any particular favor to other nations in respect of commerce and

Favors of commerce to be common to both parties.

1824.
October 3.

comercio y navegacion, que no se hagan inmediatamente comun á una ú otra, quien gozará de los mismos libremente, si la concession fuese hecha libremente, ó prestando la misma compensacion, si la concesion fuere condicional.

ARTº. 3º. Los Ciudadanos de la Republica de Colombia podrán frecuentar todas las costas y paises de los Estados- Unidos de America, y resider, y traficar en ellos con toda suerte de producciones, manufacturas, y mercaderias, y no pagarán otros, ó mayores derechos, impuestos, ó emolumentos cualesquiera que los que las naciones mas favorecidas están ó estuvieren obligadas á pagar; y gozarán todos los derechos, privilejios y esenciones, que gozan ó gozaren los de la nacion mas favorecida, con respecto á navegacion y comercio, sometiendo, no obstante, á las leyes, decretos y usos establecidos, á los cuales estan sujetos los subditos ó Ciudadanos de las naciones mas favorecidas Del mismo modo los Ciudadanos de los Estados- Unidos de America podrán frecuentar todas las costas y paises de la Republica de Colombia, y residir y traficar en ellos con toda suerte de producciones, manufacturas, y mercaderias, y no pagarán otros ó mayores derechos, impuestos, ó emolumentos cualesquiera, que los que las naciones mas favorecidas, están ó estuvieren obligadas á pagar, y gozarán de todos los derechos, privilejios y esenciones, que gozan ó gozaren los de la nacion mas favorecida con respecto á navegacion y comercio, sometiendo, no obstante, á las leyes, decretos y usos establecidos, á los cuales estan sujetos los subditos ó ciudadanos de las naciones mas favorecidas.

ARTº. 4º. Se conviene ademas, que será enteramente libre y permitido, a los comerciantes, comandantes de buques, y otros Ciudadanos de ambos paises el manejar sus negocios, por si mismos, en todos los puertos y lugares sujetos á la jurisdiccion de uno ú otro, así respecto á los consignaciones y ventas por mayor y menor de sus efectos y mercaderias, como de la carga, descarga y despacho de sus buques, debiendo en todos estos casos, ser tratados como Ciudadanos del pais en que residan, ó al menos puestos sobre un pie igual con los subditos ó Ciudadanos de las naciones mas favorecidas.

ARTº. 5º. Los Ciudadanos de una ú otra parte, no podrán ser embargados ni detenidos con sus embarcaciones, tripulaciones, mercaderias, y efectos comerciales de su pertenencia, para alguna espedicion militar, usos publicos, ó particulares cualesquiera que sean, sin conceder á los interesados una suficiente indemnizacion.

navigation, which shall not immediately become common to the other party, who shall enjoy the same freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional.

ART. 3. The citizens of the United States may frequent all the coasts and countries of the Republic of Colombia, and reside and trade there, in all sorts of produce, manufactures, and merchandise, and shall pay no other or greater duties, charges, or fees, whatsoever, than the most favored nation is or shall be obliged to pay; and they shall enjoy all the rights, privileges, and exemptions in navigation and commerce, which the most favored nation does or shall enjoy, submitting themselves, nevertheless, to the laws, decrees, and usages, there established, and to which are submitted the subjects and citizens of the most favored nations.

1824.
October 3.

Citizens of the U. States at liberty to frequent all the coasts & countries of the Republic of Colombia, to reside and trade there, &c.

In like manner the citizens of the Republic of Colombia may frequent all the coasts and countries of the United States, and reside and trade there, in all sorts of produce, manufactures, and merchandise, and shall pay no other or greater duties, charges, or fees whatsoever, than the most favored nation is or shall be obliged to pay, and they shall enjoy all the rights, privileges, and exemptions in navigation and commerce, which the most favored nation does or shall enjoy; submitting themselves, nevertheless, to the laws, decrees, and usages, there established, and to which are submitted the subjects and citizens of the most favored nations.

Same in relation to citizens of Colombia.

ART. 4. It is likewise agreed that it shall be wholly free for all merchants, commanders of ships, and other citizens of both countries, to manage themselves their own business in all ports and places subject to the jurisdiction of each other, as well with respect to the consignment and sale of their goods and merchandise by wholesale or retail, as with respect to the loading, unloading, and sending off their ships, they being in all these cases to be treated as citizens of the country in which they reside, or at least to be placed on a footing with the subjects or citizens of the most favored nation.

Merchants, commanders of ships, and other citizens of both countries, &c. to manage their own business; to be treated as citizens of the most favored nation.

ART. 5. The citizens of neither of the contracting parties shall be liable to any embargo, nor be detained with their vessels, cargoes, merchandises, or effects, for any military expedition, nor for any public or private purpose, whatever, without allowing to those interested a sufficient indemnification.

Citizens of neither of the contracting parties shall be liable to any embargo, &c.

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ART^o. 6^o. Siempre que los Ciudadanos de alguna de las partes contratantes se vieren precisados á buscár refugio, ó asilo en los rios, habias, puertos, ó dominios de la otra, con sus buques, ya sean mercantes, ó de guerra, publicos ó particulares, por mal tiempo, persecucion de piratas ó enemigos, serán recibidos y tratado con humanidad, dondoles todo favor y proteccion para reparar sus buques, procurár viveres, y ponerse en situacion de continuar su viaje, sin obstaculo ó estorbo de ningun genero.

ART^o. 7^o. Todos los buques, mercaderias y efectos pertenecientes a los Ciudadanos de una de las partes contratantes, que sean apresados por piratas, bien sea dentro de los limites de su jurisdiccion, ó en alta mar, y fueren llevados, ó hallados en los rios, radas, bahias, puertos, ó dominios de la otra, serán entregados á sus dueños, probando estos en la forma propia y debida sus derechos ante los Tribunales competentes; bien entendido que el reclamo ha de hacerse dentro del termino de un año, por las mismas partes, sus apoderados ó Agentes de los respectivos Gobiernos.

ART^o. 8^o. Cuando algun buque perteneciente á los ciudadanos de alguna de las partes contratantes, naufrague, encalle, ó sufra alguno averia, en las costas, ó dentro de los dominios de la otra, se les dará toda ayuda y proteccion, del mismo modo que es uso y costumbre, con los buques de la nacion en donde suceda la averia; permitiendoles desca rgár el dicho buque (si fuere necessario) de sus mercaderias y efectos, sin cobrar por esto hasta que sean esportados, ningun derecho, impuesto ó contribucion.

ART^o. 9^o. Los ciudadanos de cada una de las partes contratantes, tendrán pleno podér para disponér de sus bienes personales dentro de la jurisdiccion de la otra, por venta, donacion, testamento, ó de otro modo; y sus representantes, siendo ciudadanos de la otra parte, sucederán á sus dichos bienes personales, ya sea por testamento ó *ab intestato*, y podran tomar posesion de ellos, ya sea por si mismos, ó por otros, que obren por ellos, y disponer de los mismos, segun su voluntad, pagando aquellas cargas solamente, que los habitantes del pais en donde estan los referidos bienes, estuvieren sujetos, á pagar en iguales casos. Y si en el caso de bienes raices, los dichos herederos fuesen impedidos de entrár en la posesion de la herencia por razon de su caracter de extranjeros, se les dará el termino de tres años, para disponer de ella como juzguen conveniente, y para estraér el producto sin molestia, y esentos de todo derecho de deduccion, por parte del Gobierno de los respectivos Estados.

ART. 6. Whenever the citizens of either of the contracting parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions, of the other, with their vessels, whether merchant or of war, public or private, through stress of weather, pursuit of pirates, or enemies, they shall be received and treated with humanity, giving to them all favor and protection for repairing their ships, procuring provisions, and placing themselves in a situation to continue their voyage without obstacle or hindrance of any kind.

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Whenever the citizens of either party seek refuge, in the dominions, &c. of the other, they are to be treated as friends, &c.

ART. 7. All the ships, merchandise, and effects belonging to the citizens of one of the contracting parties, which may be captured by pirates, whether within the limits of its jurisdiction or on the high seas, and may be carried or found in the rivers, roads, bays, ports, or dominions, of the other, shall be delivered up to the owners, they proving in due and proper form their rights before the competent tribunals; it being well understood that the claim should be made within the term of one year by the parties themselves, their attorneys, or agents of their respective governments.

All ships, &c. belonging to the citizens of either party captured by pirates, and found within the dominions of either, to be delivered up to the owners.

ART. 8. When any vessel belonging to the citizens of either of the contracting parties shall be wrecked, foundered, or shall suffer any damage on the coasts, or within the dominions of the other, there shall be given to them all assistance and protection in the same manner which is usual and customary with the vessels of the nation where the damage happens, permitting them to unload said vessel, if necessary, of its merchandises and effects, without exacting for it any duty, impost, or contribution whatever, until they may be exported.

Assistance and protection to be rendered in case of wrecks, &c. within the dominions of each other.

ART. 9. The citizens of each of the contracting parties shall have power to dispose of their personal goods within the jurisdiction of the other, by sale, donation, testament, or otherwise, and their representatives, being citizens of the other party, shall succeed to their said personal goods, whether by testament or *ab intestato*, and they may take possession thereof, either by themselves or others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country, wherein the said goods are, shall be subject to pay in like cases: And if, in the case of real estate, the said heirs, would be prevented from entering into the possession of the inheritance, on account of their character of aliens, there shall be granted to them the term of three years to dispose of the same, as they may think proper, and to withdraw the proceeds without molestation, and exempt from all rights of detraction, on the part of the government of the respective states.

Citizens of each party shall have power to dispose of their goods and effects within the jurisdiction of the other, by sale, testament, or otherwise.

Alien heirs allowed 3 years to dispose of their property.

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ART^o. 10^o. Ambas partes contratantes se comprometen y obligan formalmente á dar su proteccion especial á las personas y propiedades de los ciudadanos de cada una reciprocamente transeuntes ó habitantes de todas ocupaciones, en los territorios sujetos á la jurisdiccion de una y otra, dejandoles abiertos y libres los tribunales de justicia, para sus recursos judiciales, en los mismos terminos que son de uso y costumbre para los naturales ó ciudadanos del pais en que residan; para lo cual, podrán emplear en defensa de sus derechos aquellos abogados, procuradores, escribanos, agentes, ó factores que juzguen conveniente, en todos sus asuntos y litigios; y dichos ciudadanos ó agentes tendrán la libre facultad de estar presentes en las decisiones y sentencias de los tribunales, en todos los casos que les conciernan, como igualmente al tomar todos los exámenes y declaraciones que se ofrezcan en los dichos litigios.

ART^o. 11^o. Se conviene igualmente en que los ciudadanos de ambas partes contratantes gozen la mas perfecta y entera seguridad de conciencia en los paises sujetos á la jurisdiccion de una ú otra, sin quedar por ello espuestos á ser inquietados ó molestados en razon de su creencia religiosa, mientras que respeten las leyes y usos establecidos. Ademas de esto, podrán sepultarse los cadaveres de los ciudadanos de una de las partes contratantes, que fallecieren en los territorios de la otra, en los cementerios acostumbrados ó en otros lugares decentes, y adecuados, los cuales serán protegidos contra toda violacion ó trastorno.

ART^o. 12^o. Será lícito a los ciudadanos de la republica de Colombia, y de los Estados-Unidos de America navegar con sus buques, con toda seguridad, de cualquiera puerto á las plazas ó lugares de los que son ó fueron en adelante enemigos de cualquiera de las dos partes contratantes, sin hacerse distincion de quienes son los dueños de las mercaderias cargadas en ellos. Será igualmente lícito á los referidos ciudadanos navegar con sus buques y mercaderias mencionadas y traficár con la misma libertad y seguridad, de los lugares, puertos y ensenadas de los enemigos de ambas partes, ó de alguna de ellas, sin ninguna oposicion, ó disturbio cualquiera, no solo directamente de las lugares de enemigo arriba mencionados á lugares neutros, sino tambien de un lugar perteneciente á un enemigo, á otro enemigo, y sea que esten bajo la jurisdiccion de una potencia, ó bajo la de diversas. Y queda aqui estipulado, que los buques libres, dan tambien libertad á las mercaderis, y que se ha de considerar libre y esento todo lo que se

ART. 10. Both the contracting parties promise and engage, formally to give their special protection to the persons and property of the citizens of each other, of all occupations, who may be in the territories subject to the jurisdiction of the one or the other, transient or dwelling therein, leaving open and free to them the tribunals of justice for their judicial recourse, on the same terms which are usual and customary, with the natives or citizens of the country in which they may be; for which they may employ in defence of their rights such advocates, solicitors, notaries, agents, and factors, as they may judge proper, in all their trials at law; and such citizens or agents shall have free opportunity to be present at the decisions and sentences of the tribunals, in all cases which may concern them, and likewise at the taking of all examinations and evidence which may be exhibited in the said trials.

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Complete protection in persons and property in the territories of both nations, legal redress, &c.

ART. 11. It is likewise agreed that the most perfect and entire security of conscience may be enjoyed by the citizens of both the contracting parties, in the countries subject to the jurisdiction of the one and the other, without their being liable to be disturbed or molested on account of their religious belief, so long as they respect the laws and established usages of the country. Moreover, the bodies of the citizens of one of the contracting parties, who may die in the territories of the other, shall be buried in the usual burying grounds, or in other decent or suitable places, and shall be protected from violation or disturbance.

Liberty of conscience and rites of burial secured.

ART. 12. It shall be lawful for the citizens of the United States of America and of the Republic of Colombia to sail with their ships, with all manner of liberty and security, no distinction being made, who are the proprietors of the merchandises laden thereon, from any port to the places of those who now are or hereafter shall be at enmity with either of the contracting parties. It shall likewise be lawful for the citizens aforesaid to sail with the ships and merchandises before-mentioned, and to trade with the same liberty and security from the places, ports, and havens, of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy, beforementioned, to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of one power or under several. And it is hereby stipulated, that free ships shall also give freedom to goods, and that every thing shall be deemed to be free and exempt, which shall be found on

Both parties at liberty to trade with those at enmity with either, &c.

Free ships to make free goods.

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hallare á bordo de los buques pertenecientes á los ciudadanos de cualquiera de las partes contratantes, aunque toda la carga ó parte de ella pertenezca á enemigos de una à otra, exceptuando siempre los artículos de contrabando de guerra. Se conviene tambien del mismo modo, en que la misma libertad se estienda á las personas que se encuentren á bordo de buques libres, con el fin de que aunque dichas personas sean enemigos de ambas partes ó de alguna de ellas, no deban ser estraídos de los buques libres, á menos que sean oficiales ó soldados en actual servicio de los enemigos: á condicion no obstante, y se conviene aqui en esto, que las estipulaciones contenidas en el presente artículo, declarando que el pabellon cubre la propiedad, se entenderán aplicables solamente á aquellas potencias que reconocen este principio; pero si alguna de las dos partes contratantes, estuviere en guerra con una tercera, y la otra permaneciese neutrál, la bandera de la neutrál cubrirá la propiedad de los enemigos, cuyos gobiernos reconozcan este principio y no de otros.

ARTº. 13º. Se conviene igualmente que en el caso de que la bandera neutrál de una de las partes contratantes proteja las propiedades de los enemigos de la otra en virtud de lo estipulado arriba, deberá siempre entenderse, que las propiedades neutrales encontradas á bordo de tales buques enemigos, han de tenerse y considerarse como propiedades enemigas, y como tales, estarán sujetas á detencion, y confiscacion; exceptuando solamente aquellas propiedades que hubiesen sido puestas á bordo de tales buques antes de la declaracion de la guerra, y aun despues, si hubiesen sido embarcadas en dichos buques, sin tener noticia de la guerra, y se conviene, que pasados dos meses despues de la declaracion, los ciudadanos de una y otra parte no podrán alegár que la ignoraban. Por el contrario, si la bandera neutrál, no protegiese las propiedades enemigas, entonces serán libres los efectos y mercaderias de la parte neutrál embarcadas en buques enemigos.

ARTº. 14º. Esta libertad de navegacion y comercio se entenderá a todo genero de mercaderias, exceptuando aquellas solamente, que se distinguen con el nombre de contrabando, y bajo este nombre de *contrabando* ó efectos prohibidos se comprenderán:

1º. Cañones, morteros, obuces, pedreros, trabucos, mosquetes, fusiles, rifles, carabinas, pistolas, picas, espadas, sables, lanzas, chuzos, alabardas, y granadas, bombas, polvora, mechas, balas, con las demas cosas correspondientes al uso de esta armas.

board the ships belonging to the citizens of either of the contracting parties although the whole lading, or any part thereof should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that although they be enemies to both or either, they are not to be taken out of that free ship, unless they are officers or soldiers, and in the actual service of the enemies: Provided, however, and it is hereby agreed, that the stipulations in this article contained, declaring that the flag shall cover the property, shall be understood as applying to those powers only who recognise the principle; but if either of the two contracting parties should be at war with a third, and the other neutral, the flag of the neutral shall cover the property of enemies whose governments acknowledge this principle, and not of others.

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All persons on board, except those in the actual service of an enemy to be free.

Flag covering the property to be applied to those powers, only, who acknowledge the principle.

ART. 13. It is likewise agreed, that in the case where the neutral flag of one of the contracting parties shall protect the property of the enemies of the other, by virtue of the above stipulation, it shall always be understood that the neutral property found on board such enemy's vessels shall be held and considered as enemy's property, and as such shall be liable to detention and confiscation, except such property as was put on board such vessel before the declaration of war, or even afterwards, if it were done without the knowledge of it; but the contracting parties agree, that two months having elapsed after the declaration, their citizens shall not plead ignorance thereof. On the contrary, if the flag of the neutral does not protect the enemy's property, in that case the goods and merchandises of the neutral, embarked in such enemy's ship shall be free.

Enemy's property, to be protected by a neutral flag, must be shipped two months before declaration of war, &c.

ART. 14. This liberty of navigation and commerce shall extend to all kinds of merchandises, excepting those only which are distinguished by the name of contraband, and under this name of contraband, or prohibited goods, shall be comprehended—

Contraband specified.

1st. Cannons, mortars, howitzers, swivels, blunderbusses, muskets, fuzées, rifles, carbines, pistols, pikes, swords, sabres, lances, spears, halberds, and granades, bombs, powder, matches, balls, and all other things belonging to the use of these arms.

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2°. Escudos, casquetes, corazas, cotas de malla, fornituras, y vestidos hechos en forma, y á usanza militar.

3°. Bandoleras, y caballos junto con sus armas y arneses.

4°. Y generalmente toda especie de armas, é instrumentos de hierro acero, bronce, cobre, y otras materias cualesquiera, manufacturadas, preparadas, y formadas espresamente para hacér la guerra por mar, ó tierra.

ART°. 15°. Todas las demas mercaderias, y efectos no comprehendidos en los articulos de contrabando esplicitamente enumerados, y clasificados en el articulo anterior, serán tenidos, y reputados por libres, y de licito y libre comercio, de modo, que ellos puedan sér transportados, y llevados de la manera mas libre, por los ciudadanos de ambas partes contratantes, aun á los lugares pertenecientes á un enemigo de una ú otra, eceptuando solamente aquellos lugares ó plazas, que están al mismo tiempo sitiadas ó bloqueadas: y para evitar toda duda en el particular, se declaran sitiadas ó bloqueadas áquellas plazas, que en la actualidad estuviesen atacadas por una fuerza de un beligerante capaz de impedir la en trada del neutrál.

ART°. 16°. Los articulos de contrabando antes enumerados y clasificados, que se hallan en un buque destinado á puerto enemigo estarán sujetos á detencion y confiscacion; dejando libre el resto del cargamento y el buque, para que los dueños puedan disponer de ellos como lo crean conveniente. Ningun buque de cualquiera de las dos naciones, será detenido, por tener á bordo articulos de contrabando, siempre que el maestro, capitan, ó sobrecargo de dicho buque quiera entregár los articulos de contrabando al apresador, á menos que lo cantidad de estos articulos sea tan grande y de tanto volumen, que no puedan sér recibidos á bordo del buque apresador, sin grandes inconvenientes; pero en este, como en todos los otros casos de justa detencion, el buque detenido será enviado al puerto mas inmediato, comodo, y seguro, par ser juzgado y sentenciado conforme á las leyes.

ART°. 17°. Y por cuanto frecuentemente sucede que los buques navegan para un puerto ó lugar perteneciente á un enemigo, sin saber que aquel esté sitiado, bloqueado ó enves-tido, se conviene en que todo buque en estas circunstancias se pueda hacer volver de dicho puerto, ó lugar; pero no será detenido, ni confiscado parte alguna de su cargamento, no siendo contrabando; á menos que despues de la intimacion de semejante bloqueo ó ataque, por el comandante de las fuerzas blo-

2dly. Bucklers, helmets, breast-plates, coats of mail, infantry belts, and clothes made up in the form and for a military use.

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3dly. Cavalry belts, and horses with their furniture.

4thly. And generally all kinds of arms and instruments of iron, steel, brass and copper, or of any other materials manufactured, prepared and formed, expressly to make war by sea or land.

ART. 15. All other merchandises and things not comprehended in the articles of contraband explicitly enumerated, and classified as above, shall be held and considered as free, and subjects of free and lawful commerce, so that they may be carried and transported in the freest manner by both the contracting parties, even to places belonging to an enemy, excepting only those places which are at that time besieged or blocked up; and to avoid all doubt in this particular, it is declared that those places only are besieged or blockaded which are actually attacked by a belligerent force capable of preventing the entry of the neutral.

Goods not contraband.

Definition of blockade.

ART. 16. The articles of contraband, before enumerated and classified, which may be found in a vessel bound for an enemy's port, shall be subject to detention and confiscation, leaving free the rest of the cargo and the ship, that the owners may dispose of them as they see proper. No vessel of either of the two nations shall be detained on the high seas on account of having on board articles of contraband, whenever the master, captain, or supercargo of said vessel will deliver up the articles of contraband to the captor, unless the quantity of such articles be so great, and of so large a bulk, that they cannot be received on board the capturing ship without great inconvenience; but in this and in all other cases of just detention, the vessel detained shall be sent to the nearest convenient and safe port, for trial and judgment according to law.

Contraband only liable to confiscation.

ART. 17. And whereas it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is besieged, blockaded, or invested, it is agreed, that every vessel so circumstanced, may be turned away from such port or place, but shall not be detained, nor shall any part of her cargo, if not contraband, be confiscated, unless, after warning of such blockade, or investment from the commanding-officer of the blockading forces, she shall

In cases of blockade, vessels to be notified but not detained, &c.

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queadoras, intentase otra vez entrar; pero le será permitido ir á qualquiera otro puerto ó lugar que juzgue conveniente. Ni ningun buque de una de las partes, que haya entrado en semejante puerto, ó lugar, antes que estuviere sitiado, bloqueado, ó investido por la otra, sera impedido de dejar el tal lugar con su cargamento, ni si fuere hallado allí despues de la rendicion y entrega de semejante lugar, estará el tal buque ó su cargamento sujeto á confiscacion, sino que serán restituidos á sus dueños.

ART.º 18.º. Para evitar todo genero de desorden en la visita, y examen de los buques y cargamentos de ambas partes contratantes en alta mar, han convenido mutuamente, que siempre que un buque de guerra, publico ó particular se encontrase con un neutral de la otra parte contratante, el primero permanecerá fuera de tiro de cañon, y podrá mandar su bote, con dos ó tres hombres solamente, para ejecutar el dicho examen de los papeles concernientes á la propiedad y carga del buque, sin ocasionár la menor estorcion, violencia ó mal tratamiento, por lo que los comandantes del dicho buque armado serán responsables, con sus personas y bienes; á cuyo efecto los comandantes de buques armados, por cuenta de particulares, estarán obligados antes de entregarseles sus comisiones ó patentes, á dar fianza suficiente para responder de los perjuicios que causen. Y se ha convenido espresamente, que en ningun caso se exigira á la parte neutrál, que vaya á bordo del buque examinador con el fin de exhibir sus papeles, ó para cualquiera otro objeto sea el que fuere.

ART.º 19.º. Para evitar todo clase de vejamen y abuso en el examen de los papeles relativos á la propiedad de los buques pertenecientes á los ciudadanos de las dos partes contratantes, han convenido y convienen, que encaso de que una de ellas estuvieré en guerra, los buques, y bajeles pertenecientes á los ciudadanos de la otra, serán provistos con letras de már, o pasaportes, espresando et nombre, propiedad y tamaño del buque, como tambien el nombre y lugar de la residencia del maestro, ó comandante, á fin de que se vea que el buque, real y verdaderamente pertenece á los ciudadanos de una de las partes; y han convenido igualmente, que estando cargados los espresados buques, ademas de las letras de mar, ó pasaportes, estarán tambien provistos de certificados, que contengan los por menores del cargamento, y el lugar de donde salió el buque, para que asi pueda saberse, si hay á su bordo algunos efectos prohibidos ó de contrabando, cuyos certificados serán hechos por los oficiales del lugar de la procedencia del buque, en la forma acostumbrada, sin cuyos requisitos el dicho buque puede ser detenido, para ser juzgado por el tribunal compe-

again attempt to enter; but she shall be permitted to go to any other port or place she shall think proper. Nor shall any vessel of either, that may have entered into such port before the same was actually besieged, blockaded or invested, by the other, be restrained from quitting such place with her cargo, nor if found therein after the reduction and surrender, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners thereof.

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Vessels entering before blockade, may quit unmolested, &c.

ART. 18. In order to prevent all kind of disorder in the visiting and examination of the ships and cargoes of both the contracting parties on the high seas, they have agreed mutually, that whenever a vessel of war, public or private, shall meet with a neutral of the other contracting party, the first shall remain out of cannon shot, and may send its boat with two or three men only in order to execute the said examination of the papers concerning the ownership and cargo of the vessel, without causing the least extortion, violence, or ill treatment, for which the commanders of the said armed ships shall be responsible with their persons and property; for which purpose the commanders of the said private armed vessels shall, before receiving their commissions, give sufficient security to answer for all the damages they may commit. And it is expressly agreed that the neutral party shall in no case be required to go on board the examining vessel, for the purpose of exhibiting her papers, or for any other purpose whatever.

During a visit at sea, armed vessels to remain out of reach of cannon shot.

Neutrals not to go on board the examining vessel.

ART. 19. To avoid all kind of vexation and abuse in the examination of the papers relating to the ownership of the vessels belonging to the citizens of the two contracting parties, they have agreed, and do agree, that in case one of them should be engaged in war, the ships and vessels belonging to the citizens of the other must be furnished with sea-letters or passports, expressing the name, property and bulk of the ship, as also the name and place of habitation of the master or commander of said vessel, in order that it may thereby appear, that the ship really and truly belongs to the citizens of one of the parties; they have agreed that such ships being laden, besides the said sea-letters or passports shall also be provided with certificates containing the several particulars of the cargo, and the place whence the ship sailed, so that it may be known whether any forbidden or contraband goods be on board the same; which certificates shall be made out by the officers of the place whence the ship sailed, in the accustomed

In case of war, sea letters, certificates of cargo, &c. to be furnished, expressing to whom the property belongs.

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tente, y puede ser declarado buena presa, á menos que satisfagan, ó suplan el defecto con testimonios enteramente equivalentes.

ARTº. 20º. Se ha convenido ademas, que las estipulaciones anteriores, relativas al examen y visita de buques, se aplicarán solamente á los que navegan sin convóy y que cuando los dichos buques estuvieren bajo de convóy, será bastante la declaracion verbal del comandante del convóy, bajo su palabra de honor, de que los buques que están bajo su proteccion pertenecen á la nacion, cuya bandera llevan, y cuando se dirijen á un puerto enemigo, que los dichos buques no tienen á su bordo articulos de contrabando de guerra.

ARTº. 21º. Se ha convenido ademas, que en todos los casos que ocurran, solo los tribunales establecidos para causas de presas, en el pais á que las presas sean conducidas, tomarán conocimiento de ellas. Y siempre que semejante tribunal de cualquiera de las partes, pronunciase sentencia contra algun buque, ó efectos, ó propiedad reclamado por los ciudadanos de la otra parte, la sentencia ó decreto hará mencion de las razones ó motivos en que aquella se haya fundado, y se entregará sin demora alguna al comandante ó agente de dicho buque, si lo solicitase, un testimonio autentico de la sentencia, ó decreto, ó de todo el proceso, pagando por el los derechos legales.

ARTº. 22º. Siempre que una de las partes contratantes estuviere empeñada en guerra, con otro Estado, ningun ciudadano de la otra parte contratante aceptará una comision ó letra de marca para el objeto de ayudár ó co-operar hostilmente con el dicho enemigo, contra la dicha parte que esté asi en guerra, bajo la pena de ser tratado como pirata.

ARTº. 23º. Si por alguna fatalidad, que no puede esperarse, y que Dios no permita, las dos partes contratantes se viesen empeñadas en guerra una con otra, han convenido y convienen de ahora para entonces, que se concederá el termino de seis meses á los comerciantes residentes en las costas y en los puertos de entrambas, y el termino de un año á los que habitan en el interior, para arreglár sus negocios, y transportár sus efectos á donde quieran, dandoles el salvo conducto necesario para ello, que les sirva de suficiente proteccion hasta que lleguen al puerto que designen. Los ciudadanos de otras ocupaciones, que se hallen establecidos en los territorios ó dominios de la Republica de Colombia, ó los Estados-Unidos de America, serán respectados, y mantenidos en el pleno gozo de su libertad personal y propiedad, á menos que su conducta particular les haga perdér esta proteccion, que en consideracion á la humanidad, las partes contratantes se comprometen á prestarles.

form; without which requisites, said vessel may be detained, to be adjudged by the competent tribunal, and may be declared legal prize, unless the said defect shall be satisfied or supplied by testimony entirely equivalent.

ART. 20. It is further agreed, that the stipulations above expressed relative to the visiting and examination of vessels, shall apply only to those which sail without convoy; and when said vessels shall be under convoy, the verbal declaration of the commander of the convoy, on his word of honor, that the vessels under his protection belong to the nation whose flag he carries; and when they are bound to an enemy's port, that they have no contraband goods on board, shall be sufficient.

ART. 21. It is further agreed, that in all cases the established courts for prize causes, in the country to which the prizes may be conducted, shall alone take cognizance of them. And whenever such tribunal of either party shall pronounce judgment against any vessel or goods, or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives on which the same shall have been founded, and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of said vessel, without any delay, he paying the legal fees for the same.

ART. 22. Whenever one of the contracting parties shall be engaged in war with another state, no citizen of the other contracting party shall accept a commission, or letter of marque, for the purpose of assisting or co-operating hostilely, with the said enemy, against the said parties so at war, under the pain of being treated as a pirate.

ART. 23. If, by any fatality which cannot be expected, and which God forbid, the two contracting parties should be engaged in a war with each other, they have agreed, and do agree, now for then, that there shall be allowed the term of six months to the merchants residing on the coasts and in the ports of each other, and the term of one year to those who dwell in the interior, to arrange their business and transport their effects wherever they please, giving to them the safe conduct necessary for it, which may serve as a sufficient protection until they arrive at the designed port. The citizens of all other occupations who may be established in the territories or dominions of the United States and of the Republic of Colombia, shall be respected and maintained in the full enjoyment of their personal liberty and property, unless their particular conduct shall cause them to forfeit this protection, which, in consideration of humanity, the contracting parties engage to give them.

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Visiting regulations to apply only to vessels without convoy

Established courts only to try prize causes
Motives of condemnation to be stated.

The neutral party not to accept a commission to cruise against the other.

In case of war, 6 months allowed to those on the coast, and 12 for those in the interior to remove effects, &c.;

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ART^o. 24^o. Ni las deudas contraidas por los individuos de una Nacion, con los individuos, de la otra, ni las acciones ó dineros, que puedan tener en los fondos publicos, ó en los bancos publicos, ó privados, serán jamas secuestrados ó confiscados en ningun caso de guerra, ó diferencia nacional.

ART^o. 25^o. Deseando ambas partes contratantes, evitar todo diferencia, relativa á etiqueta en sus comunicaciones, y correspondencias diplomaticas han convenido en el mismo, y convenien en conceder á sus enviados, ministros, y otros agentes diplomaticos, los mismos favores, inmunidades, y esenciones de que gozan, ó gozaren en lo venidero los de las naciones mas favorecidas, bien entendido que cualquier favór, inmunidad ó privilegio, que la Republica de Colombia ó los Estados-Unidos de America, tengan por conveniente despensár á los enviados, ministros, y agentes diplomaticos de otras potencias, se haga por el mismo hecho estensivo á los de una y otra de las partes contratantes.

ART^o. 26^o Para hacér mas efectiva la proteccion, que la Republica de Colombia, y los Estados-Unidos de America, darán en adelante á la navegacion y comercio de los ciudadanos de una y otra, se convienen en recibir y admitir consules y vice consules en todos los puertos abiertos al comercio extranjero, quienes gozarán en ellos todos los derechos, prerrogativas é inmunidades de los consules, y vice consules de la nacion mas favorecida, quedando no obstante en libertad cada parte contratante, para exceptuar aquellos puertos y lugares en que la admision y residencia de semejantes consules, y vice consules no parezca conveniente.

ART^o. 27^o. Para que los consules, y vice consules de las dos partes contratantes, puedan gozar los derechos, prerrogativas, é inmunidades, que les corresponden por su caracter publico, antes de entrár en el ejercicio de sus funciones, presentarán su comision ó patente en la forma debida, al gobierno con quien esten acreditados, y habiendo obtenido el *exequatur*, serán tenidos, y considerados como tales, por todas las autoridades, majistrados y habitantes del distrito consular en que residan.

ART^o. 28^o. Se ha convenido igualmente, que los consules, sus secretarios, oficiales y personas agregadas al servicio de los consulados (no siendo estas personas ciudadanos del pais en que el consul reside) estarán esentos de todo servicio publico, y tambien de toda especie de pechos, impuestos, y contribuciones, exceptuando aquellas que esten obligados á pagar por razon de comercio, ó propiedad, y á las cuales estan suje-

ART. 24. Neither the debts due from individuals of the one nation to the individuals of the other, nor shares, nor moneys, which they may have in public funds, nor in public nor private banks, shall ever, in any event of war, or of national difference, be sequestered or confiscated.

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And no sequestration of money in bank or public funds.

ART. 25. Both the contracting parties being desirous of avoiding all inequality in relation to their public communications and official intercourse, have agreed, and do agree, to grant to the envoys, ministers, and other public agents, the same favors, immunities, and exemptions, which those of the most favored nation do or shall enjoy; it being understood that whatever favors, immunities, or privileges, the United States of America or the Republic of Colombia, may find it proper to give to the ministers and public agents of any other power, shall by the same act be extended to those of each of the contracting parties.

Official intercourse in relation to public ministers, &c. to be on a reciprocal footing.

ART. 26. To make more effectual the protection which the United States and the Republic of Colombia shall afford in future to the navigation and commerce of the citizens of each other, they agree to receive and admit consuls and vice-consuls in all the ports open to foreign commerce, who shall enjoy in them all the rights, prerogatives, and immunities, of the consuls and vice-consuls of the most favored nation; each contracting party, however, remaining at liberty to except those ports and places in which the admission and residence of such consuls may not seem convenient.

Each party permitted to have consuls in each others' ports.

ART. 27. In order that the consuls and vice-consuls of the two contracting parties may enjoy the rights, prerogatives, and immunities, which belong to them, by their public character, they shall, before entering on the exercise of their functions, exhibit their commission or patent in due form to the government to which they are accredited; and having obtained their *Exequatur*, they shall be held and considered as such by all the authorities, magistrates, and inhabitants, in the consular district in which they reside.

Commissions to be exhibited before exequatur is obtained.

ART. 28. It is likewise agreed, that the consuls, their secretaries, officers, and persons attached to the service of consuls, they not being citizens of the country in which the consul resides, shall be exempt from all public service, and also from all kind of taxes, imposts, and contributions, except those which they shall be obliged to pay on account of commerce, or their property, to which the citizens and inhabitants,

Consul exempt from public service—their archives inviolate.

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tos los ciudadanos, y habitantes naturales, y extranjeros del pais en que residen, quedando en todo lo demas, sujetos a las leyes de los respectivos estados. Los archivos y papeles de los consulados serán respetados inviolablemente, y bajo ningun pretesto los ocupará magistrado alguno, ni tendrá en ellos ninguna intervencion.

ARTº. 29º. Los dichos consules tendrán poder de requerir el auxilio de las autoridades locales, para la prision, detencion y custodia de los desertores de buques, publicos y particulares de su pais, y para este objeto se dirigirán á los tribunales, jueces, y oficiales competentes y pedirán los dichos desertores por escrito, probando por una presentacion de los registros de los buques, rol del equipage, ú otros documentos publicos, que aquellos hombres eran parte de las dichas tripulaciones, y á este demanda asi probado (menos no obstante cuando seprobare lo contrario) no se reusará la entrega. Se-mejantes desertores, luego que sean arrestados, se pondrán á disposicion de los dichos consules, y pueden ser depositados en las prisiones publicas, a solicitud y espensas de los que los reclamen, para ser enviados á los buques á que corresponden, ó á otros de la misma nacion. Pero si nó fueren mandados dentro de dos meses contados desde el dia de su arresto, serán puestos en libertad, y no volverán a ser presos por la misma causa.

ARTº. 30º. Para protegér mas efectivamente su comercio y navegacion, las dos partes contratantes se convienen en formar luego que las circunstancias lo permitan, una convencion consular, que declare mas especialmente los poderes á inmundades de los consules y vice consules de las portes respectivas.

ARTº. 31º. La Republica de Colombia y los Estados Unidos de America, deseando hacer tan duraderas y firmes, como las circunstancias lo permitan las relaciones que han de establecerse entre las dos potencias, en virtud del presente tratado ó convencion general de paz, amistad, navegacion y comercio, han declarado solemnemente y convienen en los puntos siguientes:

1º. El presente tratado permanecerá en su fuerza y vigor por el termino de doce años contados desde el dia del cange de las ratificaciones, en todos los puntos concernientes á comercio y navegacion, y en todos los demas puntos que se refieren á paz y amistad, será permanente, y perpetuamente obligatorio para ambas potencias.

2º Si alguno, ó algunos de los ciudadanos de una ú otra

native and foreign, of the country in which they reside are subject; being in every thing besides subject to the laws of the respective states. The archives and papers of the consulates shall be respected inviolably, and under no pretext whatever shall any magistrate seize, or in any way interfere with them.

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ART. 29. The said consuls shall have power to require the assistance of the authorities of the country for the arrest, detention, and custody of deserters from the public and private vessels of their country, and for that purpose they shall address themselves to the courts, judges, and officers competent, and shall demand the said deserters in writing, proving by an exhibition of the registers of the vessel's or ship's roll, or other public documents, that those men were part of the said crews; and on this demand, so proved, (saving, however, where the contrary is proved,) the delivery shall not be refused. Such deserters, when arrested, shall be put at the disposal of the said consuls, and may be put in the public prisons at the request and expense of those who reclaim them, to be sent to the ships to which they belonged, or to others of the same nation. But if they be not sent back within two months, to be counted from the day of their arrest, they shall be set at liberty, and shall be no more arrested for the same cause.

Consuls may call in the public authorities to aid in securing deserters, who are not to be detained more than 2 months in prison.

ART. 30. For the purpose of more effectually protecting their commerce and navigation, the two contracting parties do hereby agree, as soon hereafter as circumstances will permit them, to form a consular convention, which shall declare specially the powers and immunities of the consuls and vice-consuls of the respective parties.

Consular convention to be formed.

ART. 31. The United States of America and the Republic of Colombia, desiring to make as durable as circumstances will permit, the relations which are to be established between the two parties by virtue of this Treaty, or General Convention of Peace, Amity, Commerce, and Navigation, have declared solemnly, and do agree to the following points:

The following points agreed to.

1st. The present Treaty shall remain in full force and virtue for the term of twelve years, to be counted from the day of the exchange of the ratifications, in all the parts relating to commerce and navigation; and in all those parts which relate to peace and friendship, it shall be permanently and perpetually binding on both powers.

Treaty to remain in force twelve years.

Peace perpetual.

2ndly. If any one or more of the citizens of either party shall

Citizens responsible for in-

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parte infringiesen alguno de los articulos contenidos en el presente tratado, dichos ciudadanos serán personalmente responsables, sin que por esto se interrumpa la harmonio y buena correspondencia entre las dos naciones, comprometiendose cada una a no protegér de modo alguno al ofensor ó sancionár semejante violacion.

3°. Si (lo que á la verdad no puede esperarse) desgraciadamente, alguno de los articulos contenidos en el presente tratado, fuesen en alguna otra manera violados, ó infringidos, se estipula espresamente que ninguna de las dos partes contratantes, ordenará, ó autorizará ningunos actos de represalia, ni declarará la guerra contra la otra por quejas de injurias, ó daños hasta que la parte que se crea ofendida, haya antes presentado á la otra una esposicion de aquellas injurias, ó daños, hasta que la parte que se crea ofendida, haya antes presentado a la otra una esposicion de aquellas injurias, ó daños, verificada con pruebas y testimonios competentes, exigiendo justicia y satisfaccion, y esto haya sido negado, ó diferido sin razon.

4°. Nada de cuanto se contiene en el presente tratado, se construirá sin embargo, ni obrará, en contra de otros tratados publicos anteriores, y existentes con otros soberanos ó Estados.

El presente tratado de paz, amistad, navegacion, y comercio, será ratificado por el presidente ó vice presidente de la Republica de Colombia, encargado del poder ejecutivo con consentimiento y aprobacion del congreso de la misma, y por el presidente de los Estados-Unidos de America, con consejo, y consentimiento del senado de los mismos; y las ratificaciones serán cangeadas en la Ciudad de Washington dentro de ocho meses contados desde este dia ó antes si fuese posible.

En fe de lo cual nosotros los plenipotenciaries de la Republica de Colombia, y de los Estados-Unidos de America hemos firmado y sellado las presentes.

Dada en la Ciudad de Bogota el dia tres de Octubre, del año del senor mil ochocientos veinticuatro, decimo cuarto de la independencia de la Republica de Colombia y cuadragesimo nono de la de los Estados-Unidos de America.

Firmado.

[L. S.]
[L. S.]

PEDRO GUAL,
RICHARD CLOUGH ANDERSON, JR.

infringe any of the articles of this treaty, such citizen shall be held personally responsible for the same, and the harmony and good correspondence between the nations shall not be interrupted thereby; each party engaging in no way to protect the offender, or sanction such violation.

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fringing this article.

3dly. If, (what indeed, cannot be expected,) unfortunately, any of the articles contained in the present treaty shall be violated or infringed in any other way whatever, it is expressly stipulated, that neither of the contracting parties will order or authorize any acts of reprisal, nor declare war against the other, on complaints of injuries or damages, until the said party considering itself offended, shall first have presented to the other a statement of such injuries or damages, verified by competent proof, and demanded justice and satisfaction, and the same shall have been either refused or unreasonably delayed.

War not to be declared, until remonstrance is made, and satisfaction is refused.

4thly. Nothing in this treaty contained, shall, however, be construed, or operate contrary to former and existing public treaties with other sovereigns or states.

Other treaties not to be contravened by this.

The present treaty of peace, amity, commerce, and navigation, shall be approved and ratified by the president of the United States of America, by and with the advice and consent of the senate thereof, and by the president of the Republic of Colombia, with the consent and approbation of the congress of the same, and the ratifications shall be exchanged in the city of Washington within eight months, to be counted from the date of the signature hereof, or sooner if possible.

Ratification within eight months.

In faith whereof, we, the plenipotentiaries of the United States of America, and of the Republic of Colombia, have signed and sealed these presents.

Done in the city of Bogota, on the third day of October, in the year of our Lord one thousand eight hundred and twenty-four, in the forty-ninth year of the Independence of the United States of America, and the fourteenth of that of the Republic of Colombia.

[L. s.] RICHARD CLOUGH ANDERSON, Jr.
[L. s.] PEDRO GUAL.

And whereas the said convention has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Washington, on the twenty-seventh day of the present month by Daniel Brent, chief clerk of the Department of State, and José Maria Salazar, LL.D. Fiscal of the high

Ratification.

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court of justice of the Republic of Colombia, and envoy extraordinary and minister plenipotentiary thereof, near the government of the United States of America, on the part of their respective governments.

Now, therefore, be it known, that I, JOHN QUINCY ADAMS, 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 witness 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 thirty-first day [L. s.] of May, in the year of our Lord one thousand eight hundred and twenty-five, and of the Independence of the United States the forty-ninth.

JOHN QUINCY ADAMS.

By the President:

H. CLAY, *Secretary of State.*

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TREATY WITH THE FEDERATION OF THE
CENTRE OF AMERICA.

By the President of the United States of America. A Proclamation:

Whereas a General Convention of Peace, Amity, Commerce and Navigation, between the United States of America and the Federation of the Centre of America, was concluded and signed at Washington, on the fifth day of December, in the year of our Lord one thousand eight hundred and twenty-five; which Convention, being in the English and Spanish languages, is word for word, as follows:

ORIGINAL.

Convencion Jeneral de Paz, Amistad, Comercio y Navegacion, entre la Confederacion de Centro-America i los Estados-Unidos de America.

La Federacion de Centro-America i los Estados-Unidos de America, deseando hacer firme y permanente la paz y amistad que felizmente existe entre ambas potencias, han resuelto fijar de una manera clara, distinta y positiva, las reglas que deben observar religiosamente en lo venidero, por medio de un tratado, ó convencion general de paz, amistad, comercio, y navegacion.

Con este muy deseable objeto, el Poder Ejecutivo de la Federation de Centro-America, ha conferido plenos poderes á Antonio Jose Cañas, diputado de la asamblea nacional constituyente por la provincia de San Salvador, y Enviado Extraordinario y Mi-

ORIGINAL.

General Convention of Peace, Amity, Commerce and Navigation, between the United States of America and the Federation of the Centre of America.

The United States of America, and the Federation of the Centre of America, desiring to make firm and permanent the peace and friendship which happily prevails between both nations, have resolved to fix, in a manner clear, distinct, and positive, the rules which shall in future be religiously observed between the one and the other, by means of a treaty, or general convention of peace, friendship, commerce, and navigation.

For this most desirable object, the President of the United States of America has conferred full powers on Henry Clay, their secretary of state; and the executive power of the Federation of the Centre America, on Antonio Jose Cañas, a deputy of the Con-

Negotiators appointed to conclude a treaty.

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nistro Plenipotenciario de la aquella Republica cerca de los Estados-Unidos, y el Presidente de los Estados-Unidos de America, á Henrico Clay, su Secretario de Estado, quienes despues de haber canjeado sus espresados plenos poderes en debida y buena forma, han convenido en los articulos siguientes.

ARTº. 1º. Hebra una paz, perfecta, firme é inviolable y amistad sincera entre la Federacion de Centro-America y los Estados-Unidos de America, en toda la estencion de sus posesiones y territorios, y entre sus pueblos y ciudadanos respectivamente sin distincion de personas, ni lugares.

ARTº. 2º. La Federacion de Centro-Amorica, y los Estados-Unidos de America, deseando vivir en paz y harmonia con las demas naciones de la tierra, por medio de una politica franca, é igualmente amistosa con todas, se obligan mutuamente à no conceder favores particulares à otras naciones, con respecto à comercio y navegacion, que no se hagan inmediatamente comun á una ú otra, quien gozará de los mismos libremente, si la concession fuese hecha libremente, ó prestando la misma compensacion, si la concesion fuere condicional.

ARTº. 3º. Las dos altas partes contratantes deseando tambien establecer el comercio y navegacion de sus respectivos paises sobres las liberales bases de perfecta igualdad y reciprocidad, convienen mutuamente que los ciudadanos de cada una podran frecuentar todas las costas y paises de la otra y residir y traficar en ellos con toda clase de producciones, manufacturas, y mercaderias, y gozaran de todos los derechos, privilegos y esempciones con respecto a navegacion y comercio que gozan ó gozaren los ciudadanos nativos, sometiendose á las leyes, decretos é usos establecidos á que estan sujetos dichos ciudadanos nativos. Pero deber entenderse que este articulo no comprehende el comercio de costa de cada uno de los dos paises, cuya regulacion es reservada a las partes respectivamente, segun sus propias y peculiares leyes.

ARTº. 4º. Igualmente convienen, que cualquiera clase de producciones, manufacturas ó mercaderias estrangeras que puedan ser, en cualquier tiempo, legalmente introducidas en la Republica Central en sus propios buques, puedan tambien ser introducidas en los buques de los Estados-Unidos; y que no se impondran ó cobraran otros ó mayores derechos de tonelada ó por el cargamenta, ya sea que la importacion se haga en buques de la una ó de la otra. De la misma manera que cualesquiera clase de producciones, manufacturas ó mer-

stituent national assembly of the province of San Salvador, and envoy extraordinary and minister plenipotentiary of that Republic, near the United States, who, after having exchanged their said full powers in due and proper form, have agreed to the following articles:

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ART. 1. There shall be a perfect, firm, and inviolable peace and sincere friendship between the United States of America and the Federation of the Centre of America, in all the extent of their possessions and territories, and between their people and citizens, respectively, without distinction of persons or places.

Firm and inviolable peace, &c.

ART. 2. The United States of America and the Federation of the Centre of America, desiring to live in peace and harmony with all the other nations of the earth, by means of a policy frank and equally friendly with all, engage mutually not to grant any particular favor to other nations in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional.

Favors of commerce to be common to both parties.

ART. 3. The two high contracting parties, being likewise desirous of placing the commerce and navigation of their respective countries on the liberal basis of perfect equality and reciprocity, mutually agree that the citizens of each may frequent all the coasts and countries of the other, and reside and trade there, in all kinds of produce, manufactures, and merchandize; and they shall enjoy all the rights, privileges, and exemptions, in navigation and commerce, which native citizens do or shall enjoy, submitting themselves to the laws, decrees, and usages, there established, to which native citizens are subjected. But it is understood that this article does not include the coasting trade of either country, the regulation of which is reserved by the parties, respectively, according to their own separate laws.

Mutual benefits in trade and residence to be equally enjoyed.

ART. 4. They likewise agree, that whatever kind of produce, manufacture, or merchandize of any foreign country, can be, from time to time, lawfully imported into the United States, in their own vessels, may be also imported in vessels of the Federation of the Centre of America; and that no higher or other duties, upon the tonnage of the vessel or her cargo, shall be levied and collected, whether the importation be made in vessels of the one country, or of the other. And, in like manner, that whatever kind of produce, manufactures or mer-

Each party may carry its own produce to the republic of the other—equalization of duties established, and to be the basis of all trade.

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caderias extranjeras que pueden ser en cualquier tiempo legalmente introducidas en los Estados-Unidos en sus propios buques, puedan tambien ser introducidas en los buques de la Federacion de Centro-America; i que no se impondran ó cobraran otros ó mayores derechos de tonelada ó por el cargamento ya sea que la importacion se haga en buques de la una ó de la otra. Conviene ademas, que todo lo que pueda ser legalmente esportado ó re-esportado de uno de los dos paises, en sus buques propios para un pais extranjero pueda de la misma manera ser esportado ó re-esportado en los buques de el otro. Y los mismo derechos, premios ó descuentos se concederan i cobraran y sea que tal exportacion, ó re-exportacion se haga en los buques de la Republica Central ó de los Estados-Unidos.

ARTº. 5º. No se impondran otros ó mayores derechos sobre la importacion de cualquier articulo, produccion ó manufactura de los Estados-Unidos en la Federacion de Centro America, i no se impondran otros ó mayores derechos sobre la importacion de cualquier articulo, produccion ó manufactura de la Federacion de Centro-America en los Estados Unidos, que los que se pagan ó pagaren en adelante por iguales articulos, produccion ó manufactura de cualquiera pais extranjero: ni se impondran otros ó mayores derechos ó cargas en cualquiera de los dos paises sobre la esportacion de cualesquiera articulos para la Federacion de Centro-America ó para los Estados-Unidos respectivamente, que los que se pagan ó pagaren en adelante por la esportacion de iguales articulos para cualquiera otro pais extranjero; ni se establecera prohibicion sobre la importacion ó esportacion de cualesquiera articulos, produccion ó manufactura de los territorios de la Federacion de Centro-America para los de los Estados-Unidos, ó de los territorios de los Estados-Unidos para los de la Federacion de Centro-America, que no sea igualmente estensiva a los otras naciones.

ARTº. 6º. Se conviene ademas, que será enteramente libre y permitido, a los comerciantes, comandantes de buques, y otros Ciudadanos de ambos paises el manejar sus negocios, por si mismos, en todos los puertos y lugares sujetos á la jurisdiccion de uno ú otro, asi respecto á los consignaciones y ventas por mayor y menor de sus efectos y mercaderias, como de la carga, descarga y despacho de sus buques, debiendo en todos estos casos, ser tratados como Ciudadanos del pais en que residan, ó al menos puestos sobre un pie igual con los subditos ó Ciudadanos de las naciones mas favorecidas.

chandize, of any foreign country, can be, from time to time, lawfully imported into the Central Republic, in its own vessels, may be also imported in vessels of the United States; and that no higher or other duties, upon the tonnage of the vessel, or her cargo, shall be levied or collected, whether the importation be made in vessels of the one country, or of the other. And they further agree, that whatever may be lawfully exported, or re-exported, from the one country, in its own vessels, to any foreign country, may, in like manner, be exported, or re-exported, in the vessels of the other country. And the same bounties, duties, and drawbacks, shall be allowed and collected, whether such exportation or re-exportation, be made in vessels of the United States, or of the Central Republic.

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ART. 5. No higher or other duties shall be imposed on the importation into the United States of any articles, the produce or manufactures of the Federation of the Centre of America, and no higher or other duties shall be imposed on the importation into the Federation of the Centre of America, of any articles, the produce or manufactures of the United States, than are or shall be, payable on the like articles, being the produce or manufactures of any other foreign country; nor shall any higher or other duties, or charges, be imposed in either of the two countries, on the exportation of any articles to the United States, or to the Federation of the Centre of America, respectively, than such as are payable on the exportation of the like articles to any other foreign country; nor shall any prohibition be imposed on the exportation or importation of any articles, the produce or manufactures of the United States, or of the Federation of the Centre of America, to or from the territories of the United States, or to or from the territories of the Federation of the Centre of America, which shall not equally extend to all other nations.

Importations and exportations to be on a reciprocal footing.

No partial prohibitions to be established.

ART. 6. It is likewise agreed that it shall be wholly free for all merchants, commanders of ships, and other citizens of both countries, to manage themselves their own business in all ports and places subject to the jurisdiction of each other, as well with respect to the consignment and sale of their goods and merchandise by wholesale or retail, as with respect to the loading, unloading, and sending off their ships, they being in all these cases to be treated as citizens of the country in which they reside, or at least to be placed on a footing with the subjects or citizens of the most favored nation.

Merchants, commanders of ships, and other citizens of both countries, &c. to manage their own business; to be treated as citizens of the most favored nation.

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ARTº. 7º. Los Ciudadanos de una ú otra parte, no podrán ser embargados ni detenidos con sus embarcaciones, tripulaciones, mercaderias, y efectos comerciales de su pertenencia, para alguna espedicion militar, usos publicos, ó particulares cualesquiera que sean, sin conceder á los interesados una suficiente indemnizacion.

ARTº. 8º. Siempre que los Ciudadanos de alguna de las partes contratantes se vieren precisados á buscár refugio, ó asilo en los rios, habias, puertos, ó dominios de la otra, con sus buques, ya sean mercantes, ó de guerra, publicos ó particulares, por mal tiempo, persecucion de piratas ó enemigos, serán recibidos y tratado con humanidad, dondoles todo favor y proteccion para reparar sus buques, procurár viveres, y ponerse en situacion de continuar su viaje, sin obstaculo ó estorbo de ningun genero.

ARTº. 9º. Todos los buques, mercaderias y efectos pertenecientes a los Ciudadanos de una de las partes contratantes, que sean apresados por piratas, bien sea dentro de los limites de su jurisdiccion, ó en alta mar, y fueren llevados, ó hallados en los rios, radas, bahias, puertos, ó dominios de la otra, serán entregados á sus dueños, probando estos en la forma propia y debida sus derechos ante los Tribunales competentes; bien entendido que el reclamo ha de hacerse dentro del termino de un año, por las mismas partes, sus apoderados ó Agentes de los respectivos Gobiernos.

ARTº. 10º. Cuando algun buque perteneciente á los ciudadanos de alguna de las partes contratantes, naufrague, encalle, ó sufra alguno averia, en las costas, ó dentro de los dominios de la otra, se les dará toda ayuda y proteccion, del mismo modo que es uso y costumbre, con los buques de la nacion en donde suceda la averia; permitiendo les descargár el dicho buque (si fuere necesario) de sus mercaderias y efectos, sin cobrar por esto hasta que sean esportados, ningun derecho, impuesto ó contribucion.

ARTº. 11º. Los ciudadanos de cada una de las partes contratantes, tendrán pleno poder para disponer de sus bienes personales dentro de la jurisdiccion de la otra, por venta, donacion, testamento, ó de otro modo; y sus representantes, siendo ciudadanos de la otra parte, succederán á sus dichos bienes personales, ya sea por testamento ó *ab intestato*, y podran tomar posesion de ellos, ya sea por si mismos, ó por otros, que obren por ellos, y disponer de los mismos, segun su voluntad, pagando aquellas cargas solamente, que los habitantes del pais en donde estan los referidos bienes, estuvieren sujetos, á pagar

ART. 7. The citizens of neither of the contracting parties shall be liable to any embargo, nor be detained with their vessels, cargoes, merchandises, or effects, for any military expedition, nor for any public or private purpose, whatever, without allowing to those interested a sufficient indemnification.

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Citizens of neither of the contracting parties shall be liable to any embargo, &c.

ART. 8. Whenever the citizens of either of the contracting parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions, of the other, with their vessels, whether merchant or of war, public or private, through stress of weather, pursuit of pirates, or enemies, they shall be received and treated with humanity, giving to them all favor and protection for repairing their ships, procuring provisions, and placing themselves in a situation to continue their voyage without obstacle or hindrance of any kind.

Whenever the citizens of either party seek refuge, in the dominions, &c. of the other, they are to be treated as friends, &c.

ART. 9. All the ships, merchandise, and effects belonging to the citizens of one of the contracting parties, which may be captured by pirates, whether within the limits of its jurisdiction or on the high seas, and may be carried or found in the rivers, roads, bays, ports, or dominions, of the other, shall be delivered up to the owners, they proving in due and proper form their rights before the competent tribunals; it being well understood that the claim should be made within the term of one year by the parties themselves, their attorneys, or agents of their respective governments.

All ships, &c. belonging to the citizens of either party captured by pirates, and found within the dominions of either, to be delivered up to the owners.

ART. 10. When any vessel belonging to the citizens of either of the contracting parties shall be wrecked, foundered, or shall suffer any damage on the coasts, or within the dominions of the other, there shall be given to them all assistance and protection in the same manner which is usual and customary with the vessels of the nation where the damage happens, permitting them to unload said vessel, if necessary, of its merchandise and effects, without exacting for it any duty, impost, or contribution whatever, until they may be exported.

Assistance and protection to be rendered in case of wrecks, &c. within the dominions of each other.

ART. 11. The citizens of each of the contracting parties shall have power to dispose of their personal goods within the jurisdiction of the other, by sale, donation, testament, or otherwise, and their representatives, being citizens of the other party, shall succeed to their said personal goods, whether by testament or *ab intestato*, and they may take possession thereof, either by themselves or others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country, wherein the said goods are, shall be subject to pay in like cases: And if, in the case of real estate,

Citizens of each party shall have power to dispose of their goods and effects within the jurisdiction of the other, by sale, testament, or otherwise.

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en iguales casos. Y si en el caso de bienes raices, los dichos herederos fuesen impedidos de entrár en la posesion de la herencia por razon de su caracter de extranjeros, se les dará el termino de tres años, para disponer de ella como juzguen conveniente, y para estraér el producto sin molestia, y esentos de todo derecho de deduccion, por parte del Gobierno de los respectivos Estados.

ART.º 12.º. Ambas partes contratantes se comprometen y obligan formalmente á dar su proteccion especial á las personas y propiedades de los ciudadanos de cada una reciprocamente transeuntes ó habitantes de todas ocupaciones, en los territorios sujetos á la jurisdiccion de una y otra, dejandoles abiertos y libres los tribunales de justicia, para sus recursos judiciales, en los mismos terminos que son de uso y costumbre para los naturales ó ciudadanos del pais en que residan; para lo cual, podrán emplear en defensa de sus derechos aquellos abogados, procuradores, escribanos, agentes, ó factores que juzguen conveniente, en todos sus asuntos y litigios; y dichos ciudadanos ó agentes tendrán la libre facultad de estar presentes en las decisiones y sentencias de los tribunales, en todos los casos que les conciernan, como igualmente al tomar todos los exámenes y declaraciones que se ofrezcan en los dichos litigios.

ART.º 13.º. Se conviene igualmente en que los ciudadanos de ambas partes contratantes gozen la mas perfecta y entera seguridad de conciencia en los paises sujetos á la jurisdiccion de una ú otra, sin quedar por ello espuestos á ser inquietados ó molestados en razon de su creencia religiosa, mientras que respeten las leyes y usos establecidos. Ademas de esto, podrán sepultarse los cadaveres de los ciudadanos de una de las partes contratantes, que fallecieren en los territorios de la otra, en los cementerios acostumbrados ó en otros lugares decentes, y adecuados, los cuales serán protegidos contra toda violacion ó trastorno.

ART.º 14.º. Será licito a los ciudadanos de la Federacion de Centro-America, y de los Estados-Unidos de America navegar con sus buques, con toda seguridad y libertad, de cualquiera puerto á las plazas ó lugares de los que son ó fueron en adelante enemigos de cualquiera de las dos partes contratantes, sin hacerse distincion de quienes son los dueños de las mercaderias cargadas en ellos. Será igualmente licito á los referidos ciudadanos navegar con sus buques y mercaderias mencionadas y traficár con la misma libertad y seguridad, de los lugares, puertos y ensenadas de los enemigos de ambas partes,

the said heirs, would be prevented from entering into the possession of the inheritance, on account of their character of aliens, there shall be granted to them the term of three years to dispose of the same, as they may think proper, and to withdraw the proceeds without molestation, and exempt from all duties of detraction, on the part of the government of the respective states.

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Alien heirs allowed 3 years to dispose of their property.

ART. 12. Both the contracting parties promise and engage, formally to give their special protection to the persons and property of the citizens of each other, of all occupations, who may be in the territories subject to the jurisdiction of the one or the other, transient or dwelling therein, leaving open and free to them the tribunals of justice for their judicial recourse, on the same terms which are usual and customary, with the natives or citizens of the country in which they may be; for which they may employ in defence of their rights such advocates, solicitors, notaries, agents, and factors, as they may judge proper, in all their trials at law; and such citizens or agents shall have free opportunity to be present at the decisions and sentences of the tribunals, in all cases which may concern them, and likewise at the taking of all examinations and evidence which may be exhibited in the said trials.

Complete protection in persons and property in the territories of both nations, legal redress, &c.

ART. 13. It is likewise agreed that the most perfect and entire security of conscience shall be enjoyed by the citizens of both the contracting parties, in the countries subject to the jurisdiction of the one and the other, without their being liable to be disturbed or molested on account of their religious belief, so long as they respect the laws and established usages of the country. Moreover, the bodies of the citizens of one of the contracting parties, who may die in the territories of the other, shall be buried in the usual burying grounds, or in other decent or suitable places, and shall be protected from violation or disturbance.

Liberty of conscience and rites of burial secured.

ART. 14. It shall be lawful for the citizens of the United States of America and of the Federation of the Centre of America to sail with their ships, with all manner of liberty and security, no distinction being made, who are the proprietors of the merchandise laden thereon, from any port to the places of those who now are or hereafter shall be at enmity with either of the contracting parties. It shall likewise be lawful for the citizens aforesaid to sail with the ships and merchandises before-mentioned, and to trade with the same liberty and security from the places, ports, and havens, of those who are enemies

Both parties at liberty to trade with those at enmity with either, &c.

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ó de alguna de ellas, sin ninguna oposicion, ó disturbio cualquiera, no solo directamente de los lugares de enemigo arriba mencionados á lugares neutros, sino tambien de un lugar perteneciente á un enemigo, á otro enemigo, ya sea que esten bajo la jurisdiccion de una potencia, ó bajo la de diversas. Y queda aqui estipulado, que los buques libres, dan tambien libertad á las mercaderias, y que se ha de considerar libre y esento todo lo que se hallare á bordo de los buques pertenecientes á los ciudadanos de cualquiera de las partes contratantes, aunque toda la carga ó parte de ella pertenezca á enemigos de una à otra, exceptuando siempre los articulos de contrabando de guerra. Se conviene tambien del mismo modo, en que la misma libertad se estienda á las personas que se encuentren á bordo de buques libres, con el fin de que aunque dichas personas sean enemigos de ambas partes ó de alguna de ellas, no deban ser estraídos de los buques libres, á menos que sean oficiales ó soldados en actual servicio de los enemigos: á condicion no obstante, y se conviene aqui en esto, que las estipulaciones contenidas en el presente articulo, declarando que el pabellon cubre la propiedad, se entenderán aplicables solamente á aquellas potencias que reconocen este principio; pero si alguna de las dos partes contratantes, estuviere en guerra con una tercera, y la otra permaneciese neutrál, la bandera de la neutrál cubrirá la propiedad de los enemigos, cuyos gobiernos reconozcan este principio y no de otros.

ART.º 15.º. Se conviene igualmente que en el caso de que la bandera neutrál de una de las partes contratantes protega las propiedades de los enemigos de la otra en virtud de lo estipulado arriba, deberá siempre entenderse, que las propiedades neutrales encontradas á bordo de tales buques enemigos, han de tenerse y considerarse como propiedades enemigas, y como tales, estarán sujetas á detencion, y confiscacion; exceptuando solamente aquellas propiedades que hubiesen sido puestas á bordo de tales buques antes de la declaracion de la guerra, y aun despues, si hubiesen sido embarcadas en dichos buques, sin tener noticia de la guerra, y se conviene, que pasados dos meses despues de la declaracion, los ciudadanos de una y otra parte no podrán alegar que la ignoraban. Por el contrario, si la bandera neutrál, no protegiese las propiedades enemigas, entonces serán libres los efectos y mercaderias de la parte neutrál embarcadas en buques enemigos.

ART.º 16.º. Esta libertad de navegacion y comercio se estenderá a todo genero de mercaderias, exceptuando aquellas

of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy, beforementioned, to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of one power or under several. And it is hereby stipulated, that free ships shall also give freedom to goods, and that every thing shall be deemed to be free and exempt, which shall be found on board the ships belonging to the citizens of either of the contracting parties although the whole lading, or any part thereof should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that although they be enemies to both or either party, they are not to be taken out of that free ship, unless they are officers or soldiers, and in the actual service of the enemies: Provided, however, and it is hereby agreed, that the stipulations in this article contained, declaring that the flag shall cover the property, shall be understood as applying to those powers only who recognise this principle; but if either of the two contracting parties should be at war with a third, and the other neutral, the flag of the neutral shall cover the property of enemies whose governments acknowledge this principle, and not of others.

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Free ships to
make free
goods.

All persons on
board, except
those in the ac-
tual service of
an enemy to be
free.

Flag covering
the property to
be applied to
those powers,
only, who ac-
knowledge the
principle.

ART. 15. It is likewise agreed, that in the case where the neutral flag of one of the contracting parties shall protect the property of the enemies of the other, by virtue of the above stipulation, it shall always be understood that the neutral property found on board such enemy's vessels shall be held and considered as enemy's property, and as such shall be liable to detention and confiscation, except such property as was put on board such vessel before the declaration of war, or even afterwards, if it were done without the knowledge of it; but the contracting parties agree, that two months having elapsed after the declaration, their citizens shall not plead ignorance thereof. On the contrary, if the flag of the neutral does not protect the enemy's property, in that case the goods and merchandises of the neutral, embarked in such enemy's ship shall be free.

Enemy's pro-
perty, to be
protected by a
neutral flag,
must be ship-
ped two months
before declara-
tion of war, &c.

ART. 16. This liberty of navigation and commerce shall extend to all kinds of merchandises, excepting those only which

Contraband
specified.

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solamente, que se distinguen con el nombre de **contrabando**, y bajo este nombre de *contrabando* ó efectos prohibidos se comprenderán:

1°. Cañones, morteros, obuces, pedreros, trabucos, mosquetes, fusiles, rifles, carabinas, pistolas, picas, espadas, sables, lanzas, chuzos, alabardas, y granadas, bombas, polvora, mechas, balas, con las demas cosas correspondientes al uso de esta armas.

2°. Escudos, casquetes, corazas, cotas de malla, fornituras, y vestidos hechos en forma, y á usanza militar.

3°. Bandoleras, y caballos junto con sus armas y arneses.

4°. Y generalmente toda especie de armas, é instrumentos de hierro acero, bronce, cobre, y otras materias cualesquiera, manufacturadas, preparadas, y formadas espresamente para hacér la guerra por mar, ó tierra.

ART°. 17°. Todas las demas mercaderias, y efectos no comprendidos en los articulos de **contrabando** esplicitamente enumerados, y clasificados en el articulo anterior, serán tenidos, y reputados por libres, y de licito y libre comercio, de modo, que ellos puedan sér transportados, y llevados de la manera mas libre, por los ciudadanos de ambas partes contratantes, aun á los lugares pertenecientes á un enemigo de una ú otra, eceptuando solamente aquellos lugares ó plazas, que están al mismo tiempo sitiadas ó bloqueadas: y para evitar toda duda en el particular, se declaran sitiadas ó bloqueadas áquellas plazas, que en la actualidad estuviesen atacadas por una fuerza de un beligerante capaz de impedir la en trada del neutrál.

ART°. 18°. Los articulos de **contrabando** antes enumerados y clasificados, que se hallan en un buque destinado á puerto enemigo estarán sujetos á detencion y confiscacion; dejando libre el resto del cargamento y el buque, para que los dueños puedan disponer de ellos como lo crean conveniente. Ningun buque de cualquiera de las dos naciones, será detenido, por tener á bordo articulos de **contrabando**, siempre que el maestre, capitan, ó sobrecargo de dicho buque quiera entregár los articulos de **contrabando** al apresador, á menos que lo cantidad de estos articulos sea tan grande y de tanto volumen, que no puedan sér recibidos á bordo del buque apresador, sin grandes inconvenientes; pero en este, como en todos los otros casos de justa detencion, el buque detenido será enviado al puerto mas inmediato, comodo, y seguro, par ser juzgado y sentenciado conforme á las leyes.

are distinguished by the name of contraband, and under this name of contraband, or prohibited goods, shall be comprehended—

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1st. Cannons, mortars, howitzers, swivels, blunderbusses, muskets, fuzées, rifles, carbines, pistols, pikes, swords, sabres, lances, spears, halberds, and grenades, bombs, powder, matches, balls, and all other things belonging to the use of these arms.

2dly. Bucklers, helmets, breast-plates, coats of mail, infantry belts, and clothes made up in the form and for a military use.

3dly. Cavalry belts, and horses with their furniture.

4thly. And generally all kinds of arms and instruments of iron, steel, brass and copper, or of any other materials manufactured, prepared and formed, expressly to make war by sea or land.

ART. 17. All other merchandise and things not comprehended in the articles of contraband explicitly enumerated, and classified as above, shall be held and considered as free, and subjects of free and lawful commerce, so that they may be carried and transported in the freest manner by both the contracting parties, even to places belonging to an enemy, excepting only those places which are at that time besieged or blocked up; and to avoid all doubt in this particular, it is declared that those places only are besieged or blockaded which are actually attacked by a belligerent force capable of preventing the entry of the neutral.

Goods not contraband.

Definition of blockade.

ART. 18. The articles of contraband, before enumerated and classified, which may be found in a vessel bound for an enemy's port, shall be subject to detention and confiscation, leaving free the rest of the cargo and the ship, that the owners may dispose of them as they see proper. No vessel of either of the two nations shall be detained on the high seas on account of having on board articles of contraband, whenever the master, captain, or supercargo of said vessel will deliver up the articles of contraband to the captor, unless the quantity of such articles be so great, and of so large a bulk, that they cannot be received on board the capturing ship without great inconvenience; but in this and in all other cases of just detention, the vessel detained shall be sent to the nearest convenient and safe port, for trial and judgment according to law.

Contraband only liable to confiscation.

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ARTº. 19º. Y por cuanto frecuentemente sucede que los buques navegan para un puerto ó lugar perteneciente á un enemigo, sin saber que aquel esté sitiado, bloqueado ó investido, se conviene en que todo buque en estas circunstancias se pueda hacer volver de dicho puerto, ó lugar; pero no será detenido, ni confiscado parte alguna de su cargamento, no siendo contrabando; á menos que despues de la intimacion de semejante bloqueo ó ataque, por el comandante de las fuerzas bloqueadoras, intentase otra vez entrar; pero le será permitido ir á qualquiera otro puerto ó lugar que juzgue conveniente. Ni ningun buque de una de las partes, que haya entrado en semejante puerto, ó lugar, antes que estuviese sitiado, bloqueado, ó investido por la otra, sera impedido de dejar el tal lugar con su cargamento, ni si fuere hallado allí despues de la rendicion y entrega de semejante lugar, estará el tal buque ó su cargamento sujeto á confiscacion, sino que serán restituidos á sus dueños.

ARTº. 20º. Para evitar todo genero de desorden en la visita, y examen de los buques y cargamentos de ambas partes contratantes en alta mar, han convenido mutuamente, que siempre que un buque de guerra, publico ó particular se encontrase con un neutral de la otra parte contratante, el primero permanecerá fuera de tiro de cañon, y podrá mandár su bote, con dos ó tres hombres solamente, para ejecutár el dicho examen de los papeles concernientes á la propiedad y carga del buque, sin ocasionár la menor estorcion, violencia ó mal tratamiento, por lo que los comandantes del dicho buque armado serán responsables, con sus personas y bienes; á cuyo efecto los comandantes de buques armados, por cuenta de particulares, estarán obligados antes de entregarseles sus comisiones ó patentes, á dar fianza suficiente para respondér de los perjuicios que causen. Y se ha convenido espresamente, que en ningun caso se exigira á la parte neutrál, que vaya á bordo del buque examinadór con el fin de exhibir sus papeles, ó para cualquiera otro objeto sea el que fuere.

ARTº. 21º. Para evitar todo clase de vejamen y abuso en el examen de los papeles relativos á la propiedad de los buques pertenecientes á los ciudadanos de las dos partes contratantes, han convenido y convienen, que en caso de que una de ellas estuviere en guerra, los buques, y bajeles pertenecientes á los ciudadanos de la otra, serán provistos con letras de már, o pasaportes, espresando et nombre, propiedad y tamaño del buque, como tambien el nombre y lugar de la residencia del maestre, ó comandante, á fin de que se vea que el buque, real

ART. 19. And whereas it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is besieged, blockaded, or invested, it is agreed, that every vessel so circumstanced, may be turned away from such port or place, but shall not be detained, nor shall any part of her cargo, if not contraband, be confiscated, unless, after warning of such blockade, or investment from the commanding officer of the blockading forces, she shall again attempt to enter; but she shall be permitted to go to any other port or place she shall think proper. Nor shall any vessel of either, that may have entered into such port before the same was actually besieged, blockaded or invested, by the other, be restrained from quitting such place with her cargo, nor if found therein after the reduction and surrender, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners thereof.

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In cases of blockade, vessels to be notified but not detained, &c.

Vessels entering before blockade, may quit unmolested, &c.

ART. 20. In order to prevent all kind of disorder in the visiting and examination of the ships and cargoes of both the contracting parties on the high seas, they have agreed mutually, that whenever a vessel of war, public or private, shall meet with a neutral of the other contracting party, the first shall remain out of cannon shot, and may send its boat with two or three men only in order to execute the said examination of the papers concerning the ownership and cargo of the vessel, without causing the least extortion, violence, or ill treatment, for which the commanders of the said armed ships shall be responsible with their persons and property; for which purpose the commanders of the said private armed vessels shall, before receiving their commissions, give sufficient security to answer for all the damages they may commit. And it is expressly agreed that the neutral party shall in no case be required to go on board the examining vessel, for the purpose of exhibiting her papers, or for any other purpose whatever.

During a visit at sea, armed vessels to remain out of reach of cannon shot.

Neutrals not to go on board the examining vessel.

ART. 21. To avoid all kind of vexation and abuse in the examination of the papers relating to the ownership of the vessels belonging to the citizens of the two contracting parties, they have agreed, and do agree, that in case one of them should be engaged in war, the ships and vessels belonging to the citizens of the other must be furnished with sea-letters or passports, expressing the name, property and bulk of the ship, as also the name and place of habitation of the master or commander of said vessel, in order that it may thereby appear,

In case of war, sea letters, certificates of cargo, &c. to be furnished, expressing to whom the property belongs.

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y verdaderamente pertenece á los ciudadanos de una de las partes; y han convenido igualmente, que estando cargados los espresados buques, ademas de las letras de mar, ó pasaportes, estarán tambien provistos de certificados, que contengan los por menores del cargamento, y el lugar de donde salió el buque, para que asi pueda saberse, si hay á su bordo algunos efectos prohibidos ó de contrabando, cuyos certificados serán hechos por los oficiales del lugar de la procedencia del buque, en la forma acostumbrada, sin cuyos requisitos el dicho buque puede ser detenido, para ser juzgado por el tribunal competente, y puede ser declarado buena presa, á menos que satisfagan, ó suplan el defecto con testimonios enteramente equivalentes.

ART°. 22°. Se ha convenido ademas, que las estipulaciones anteriores, relativas al examen y visita de buques, se aplicarán solamente á los que navegan sin convóy y que cuando los dichos buques estuvieren bajo de convóy, será bastante la declaracion verbal del comandante del convóy, bajo su palabra de honor, de que los buques que están bajo su proteccion pertenecen á la nacion, cuya bandera llevan, y cuando se dirijen á un puerto enemigo, que los dichos buques no tienen á su bordo articulos de contrabando de guerra.

ART°. 23°. Se ha convenido ademas, que en todos los casos que ocurran, solo los tribunales establecidos para causas de presas, en el pais á que las presas sean conducidas, tomarán conocimiento de ellas. Y siempre que semejante tribunal de cualquiera de las partes, pronunciasse sentencia contra algun buque, ó efectos, ó propiedad reclamado por los ciudadanos de la otra parte, la sentencia ó decreto hará mencion de las razones ó motivos en que aquella se haya fundado, y se entregará sin demora alguna al comandante ó agente de dicho buque, si lo solicitase, un testimonio autentico de la sentencia, ó decreto, ó de todo el proceso, pagando por el los derechos legales.

ART°. 24°. Siempre que una de las partes contratantes estuviere empeñada en guerra, con otro Estado, ningun ciudadano de la otra parte contratante aceptará una comision ó letra de marca para el objeto de ayudár ó co-operar hostilmente con el dicho enemigo, contra la dicha parte que esté asi en guerra, bajo la pena de ser tratado como pirata.

ART°. 25°. Si por alguna fatalidad, que no puede esperarse, y que Dios no permita, las dos partes contratantes se viesen empeñadas en guerra una con otra, han convenido y convienen de ahora para entonces, que se concederá el termino de seis meses á los comerciantes residentes en las costas y en los

that the ship really and truly belongs to the citizens of one of the parties; they have likewise agreed that such ships being laden besides the said sea-letters or passports shall also be provided with certificates containing the several particulars of the cargo, and the place whence the ship sailed, so that it may be known whether any forbidden or contraband goods be on board the same; which certificates shall be made out by the officers of the place whence the ship sailed, in the accustomed form; without which requisites, said vessel may be detained, to be adjudged by the competent tribunal, and may be declared legal prize, unless the said defect shall be satisfied or supplied by testimony entirely equivalent.

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ART. 22. It is further agreed, that the stipulations above expressed relative to the visiting and examination of vessels, shall apply only to those which sail without convoy; and when said vessels shall be under convoy, the verbal declaration of the commander of the convoy, on his word of honor, that the vessels under his protection belong to the nation whose flag he carries; and when they are bound to an enemy's port, that they have no contraband goods on board, shall be sufficient.

Visiting regulations to apply only to vessels without convoy

ART. 23. It is further agreed, that in all cases the established courts for prize causes, in the country to which the prizes may be conducted, shall alone take cognizance of them. And whenever such tribunal of either party shall pronounce judgment against any vessel or goods, or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives on which the same shall have been founded, and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of said vessel, without any delay, he paying the legal fees for the same.

Established courts only to try prize causes
Motives of condemnation to be stated.

ART. 24. Whenever one of the contracting parties shall be engaged in war with another state, no citizen of the other contracting party shall accept a commission, or letter of marque, for the purpose of assisting or co-operating hostilely, with the said enemy, against the said parties so at war, under the pain of being treated as a pirate.

The neutral party not to accept a commission to cruise against the other.

ART. 25. If, by any fatality which cannot be expected, and which God forbid, the two contracting parties should be engaged in a war with each other, they have agreed, and do agree, now for then, that there shall be allowed the term of six months to the merchants residing on the coasts and in the ports of each

In case of war, 6 months allowed to those on the coast, and 12 for those in the interior to remove effects, &c.;

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puertos de entrambas, y el termino de un año á los que habitan en el interior, para arreglar sus negocios, y transportár sus efectos á donde quieran, dandoles el salvo conducto necesario para ello, que les sirva de suficiente proteccion hasta que lleguen al puerto que designen. Los ciudadanos de otras ocupaciones, que se hallen establecidos en los territorios ó dominios de la Federacion de Centro-America, ó los Estados Unidos de America, serán respetados, y mantenidos en el pleno gozo de su libertad personal y propiedad, á menos que su conducta particular les haga perdér esta proteccion, que en consideracion á la humanidad, las partes contratantes se comprometen á prestarles.

ARTº. 26º. Ni las deudas contraidas por los individuos de una Nacion, con los individuos, de la otra, ni las acciones ó dineros, que puedan tener en los fondos publicos, ó en los bancos publicos, ó privados, serán jamas secuestrados ó confiscados en ningun caso de guerra, ó diferencia nacional.

ARTº. 27º. Deseando ambas partes contratantes, evitar toda diferencia, relativa á etiqueta en sus comunicaciones, y correspondencias diplomaticas han convenido asi mismo, y convenien en conceder á sus enviados, ministros, y otros agentes diplomaticos, los mismos favores, inmunidades, y esenciones de que gozan, ó gozaren en lo venidero los de las naciones mas favorecidas, bien entendido que cualquier favór, inmunidad ó privilegio, que la Federacion de Centro-America, ó los Estados-Unidos de America, tengan por conveniente dispensár á los enviados, ministros, y agentes diplomaticos de otras potencias, se haga por el mismo hecho estensivo á los de una y otra de las partes contratantes.

ARTº. 28º Para hacer mas efectiva la proteccion, que la Federacion de Centro-America, y los Estados-Unidos de America, darán en adelante á la navegacion y comercio de los ciudadanos de una y otra, se convienen en recibir y admitir consules y vice consules en todos los puertos abiertos al comercio extranjero, quienes gozarán en ellos todos los derechos, prerrogativas é inmunidades de los consules, y vice consules de la nacion mas favorecida, quedando no obstante en libertad cada parte contratante, para exceptuar aquellos puertos y lugares en que la admision y residencia de semejantes consules, y vice consules no parezca conveniente.

ARTº. 29º. Para que los consules, y vice consules de las dos partes contratantes, puedan gozar los derechos, prerrogativas, é inmunidades, que les corresponden por su caracter publico, antes de entrár en el ejercicio de sus funciones, presentarán

other, and the term of one year to those who dwell in the interior, to arrange their business and transport their effects wherever they please, giving to them the safe conduct necessary for it, which may serve as a sufficient protection until they arrive at the designated port. The citizens of all other occupations who may be established in the territories or dominions of the United States and of the Federation of the Centre of America, shall be respected and maintained in the full enjoyment of their personal liberty and property, unless their particular conduct shall cause them to forfeit this protection, which, in consideration of humanity, the contracting parties engage to give them.

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ART. 26. Neither the debts due from individuals of the one nation to the individuals of the other, nor shares, nor moneys, which they may have in public funds, nor in public nor private banks, shall ever, in any event of war, or of national difference, be sequestered or confiscated.

And no sequestration of money in bank or public funds.

ART. 27. Both the contracting parties being desirous of avoiding all inequality in relation to their public communications and official intercourse, have agreed, and do agree, to grant to the envoys, ministers, and other public agents, the same favors, immunities, and exemptions, which those of the most favored nation do or shall enjoy; it being understood that whatever favors, immunities, or privileges, the United States of America or the Federation of the Centre of America may find it proper to give the ministers and public agents of any other power, shall, by the same act, be extended to those of each of the contracting parties.

Official intercourse in relation to public ministers, &c. to be on a reciprocal footing.

ART. 28. To make more effectual the protection which the United States and the Federation of the Centre of America shall afford in future to the navigation and commerce of the citizens of each other, they agree to receive and admit consuls and vice-consuls in all the ports open to foreign commerce, who shall enjoy in them all the rights, prerogatives, and immunities, of the consuls and vice-consuls of the most favored nation; each contracting party, however, remaining at liberty to except those ports and places in which the admission and residence of such consuls may not seem convenient.

Each party permitted to have consuls in each others' ports.

ART. 29. In order that the consuls and vice-consuls of the two contracting parties may enjoy the rights, prerogatives, and immunities, which belong to them, by their public character, they shall, before entering on the exercise of their functions, ex-

Commissions to be exhibited before exequatur is obtained.

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su comision ó patente en la forma debida, al gobierno con quien esten acreditados, y habiendo obtenido el *exequatur*, serán tenidos, y considerados como tales, por todas las autoridades, majistrados y habitantes del distrito consular en que residan.

ARTº. 30º. Se ha convenido igualmente, que los consules, sus secretarios, officiales y personas agregadas al servicio de los consulados (no siendo estas personas ciudadanos del pais en que el consul reside) estarán esentos de todo servicio publico, y tambien de toda especie de pechos, impuestos, y contribuciones, exceptuando aquellas que esten obligados á pagar por razon de comercio, ó propiedad, y á las cuales estan sujetos los ciudadanos, y habitantes naturales, y estrangeros del pais en que residen, quedando en todo lo demas, sujetos a las leyes de los respectivos estados. Los archivos y papeles de los consulados serán respetados inviolablemente, y bajo ningun pretesto los ocupará magistrado alguno, ni tendrá en ellos ninguna intervencion.

ARTº. 31º. Los dichos consules tendrán poder de requerir el auxilio de las autoridades locales, para la prision, detencion y custodia de los desertores de buques, publicos y particulares de su pais, y para este objeto se dirigirán á los tribunales, jueces, y officiales competentes y pedirán los dichos desertores por escrito, probando por una presentacion de los registros de los buques, rol del equipage, ú otros documentos publicos, que aquellos hombres eran parte de las dichas tripulaciones, y á esta demanda asi probado (menos no obstante cuando seprobare lo contrario) no se reusará la entrega. Semejantes desertores, luego que sean arrestados, se pondrán á disposicion de los dichos consules, y pueden ser depositados en las prisiones publicas, a solicitud y espensas de los que los reclamen, para ser enviados á los buques á que corresponden, ó á otros de la misma nacion. Pero si nó fueren mandados dentro de dos meses contados desde el dia de su arresto, serán puestos en libertad, y no volverán a ser presos por la misma causa.

ARTº. 32º. Para protegér mas efectivamente su comercio y navegacion, las dos partes contratantes se convienen en formar luego que las circunstancias lo permitan, una convencion consular, que declare mas especialmente los poderes é inmunidades de los consules y vice consules de las partes respectivas.

ARTº. 33º. La Federacion de Centro-America, y los Estados Unidos de America, deseando hacer tan duraderas y

hibit their commission or patent in due form to the government to which they are accredited; and having obtained their *exequatur*, they shall be held and considered as such by all the authorities, magistrates, and inhabitants, in the consular district in which they reside.

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ART. 30. It is likewise agreed, that the consuls, their secretaries, officers, and persons attached to the service of consuls, they not being citizens of the country in which the consul resides, shall be exempt from all public service, and also from all kind of taxes, imposts, and contributions, except those which they shall be obliged to pay on account of commerce, or their property, to which the citizens and inhabitants, native and foreign, of the country in which they reside are subject; being in every thing besides subject to the laws of the respective states. The archives and papers of the consulates shall be respected inviolably, and under no pretext whatever shall any magistrate seize, or in any way interfere with them.

Consulsexempt from public service—their archives inviolate.

ART. 31. The said consuls shall have power to require the assistance of the authorities of the country for the arrest, detention, and custody of deserters from the public and private vessels of their country, and for that purpose they shall address themselves to the courts, judges, and officers competent, and shall demand the said deserters in writing, proving by an exhibition of the registers of the vessel's or ship's roll, or other public documents, that those men were part of the said crews; and on this demand, so proved, (saving, however, where the contrary is proved,) the delivery shall not be refused. Such deserters, when arrested, shall be put at the disposal of the said consuls, and may be put in the public prisons at the request and expense of those who reclaim them, to be sent to the ships to which they belonged, or to others of the same nation. But if they be not sent back within two months, to be counted from the day of their arrest, they shall be set at liberty, and shall be no more arrested for the same cause.

Consuls may call in the public authorities to aid in securing deserters, who are not to be detained more than 2 months in prison.

ART. 32. For the purpose of more effectually protecting their commerce and navigation, the two contracting parties do hereby agree, as soon hereafter as circumstances will permit them, to form a consular convention, which shall declare specially the powers and immunities of the consuls and vice-consuls of the respective parties.

Consular convention to be formed.

ART. 33. The United States of America and the Federation of the Centre of America, desiring to make as durable as

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firmes, como las circunstancias lo permitan las relaciones que han de establecerse entre las dos potencias, en virtud del presente tratado ó convencion general de paz, amistad, navegacion y comercio, han declarado solemnemente y convienen en los puntos siguientes:

1°. El presente tratado permanecerá en su fuerza y vigor por el termino de doce años contados desde el dia del cange de las ratificaciones, en todos los puntos concernientes á comercio y navegacion, y en todos los demas puntos que se refieren á paz y amistad, será permanente, y perpetuamente obligatorio para ambas potencias.

2°. Si alguno, ó algunos de los ciudadanos de una ú otra parte infringiesen alguno de los articulos contenidos en el presente tratado, dichos ciudadanos serán personalmente responsables, sin que por esto se interrumpa la harmonio y buena correspondencia entre las dos naciones, comprometiendose cada una a no proteger de modo alguno al ofensor ó sancionár semejante violacion.

3°. Si (lo que á la verdad no puede esperarse) desgraciadamente, alguno de los articulos contenidos en el presente tratado, fuesen en alguna otra manera violados, ó infringidos, se estipula espresamente que ninguna de las dos partes contratantes, ordenará, ó autorizará ningunos actos de represalia, ni declarará la guerra contra la otra por quejas de injurias, ó daños hasta que la parte que se crea ofendida, haya antes presentado á la otra una esposicion de aquellas injurias, ó daños, hasta que la parte que se crea ofendida, haya antes presentado a la otra una esposicion de aquellas injurias, ó daños, verificada con pruebas y testimonios competentes, exigiendo justicia y satisfaccion, y esto haya sido negado, ó diferido sin razon.

4°. Nada de cuanto se contiene en el presente tratado, se construirá sin embargo, ni obrará, en contra de otros tratados publicos anteriores, y existentes con otros soberanos ó Estados.

El presente tratado de paz, amistad, comercio, y navegacion, será ratificado por el Gobierno de la Federacion de Centro-America, por el presidente de los Estados-Unidos de America, con consejo, y consentimiento del senado de los mismos; y las ratificaciones serán cangeadas en la ciudad de Guatemala dentro de ocho meses contados desde este dia, ó antes si fuese posible.

circumstances will permit, the relations which are to be established between the two parties by virtue of this Treaty, or General Convention of Peace, Amity, Commerce, and Navigation, have declared solemnly, and do agree to the following points:

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The following points agreed to.

1st. The present Treaty shall remain in full force and virtue for the term of twelve years, to be counted from the day of the exchange of the ratifications, in all the parts relating to commerce and navigation; and in all those parts which relate to peace and friendship, it shall be permanently and perpetually binding on both powers.

Treaty to remain in force twelve years.

Peace perpetual.

2ndly. If any one or more of the citizens of either party shall infringe any of the articles of this treaty, such citizen shall be held personally responsible for the same, and the harmony and good correspondence between the nations shall not be interrupted thereby; each party engaging in no way to protect the offender, or sanction such violation.

Citizens responsible for infringing this article.

3dly. If, (which indeed, cannot be expected) unfortunately, any of the articles contained in the present treaty shall be violated or infringed in any other way whatever, it is expressly stipulated, that neither of the contracting parties will order or authorize any acts of reprisal, nor declare war against the other, on complaints of injuries or damages, until the said party considering itself offended, shall first have presented to the other a statement of such injuries or damages, verified by competent proof, and demanded justice and satisfaction, and the same shall have been either refused or unreasonably delayed.

War not to be declared, until remonstrance is made, and satisfaction is refused.

4thly. Nothing in this treaty contained, shall, however, be construed, or operate contrary to former and existing public treaties with other sovereigns or states.

Other treaties not to be contravened by this.

The present treaty of peace, amity, commerce, and navigation, shall be approved and ratified by the president of the United States of America, by and with the advice and consent of the senate thereof, and by the government of the Federation of the Centre of America, and the ratifications shall be exchanged in the city of Guatemala, within eight months, from the date of the signature hereof, or sooner if possible.

Ratification within eight months.

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En fe de lo cual nosotros los plenipotenciarios de la Federacion de Centro-America, y de los Estados-Unidos de America hemos firmado y sellado las presentes.

Dada en la Ciudad de Washington, el dia cinco de Diciembre, del año del señor mil ochocientos veinticinco, quinto de la independenciam de la Federacion de Centro-America y quinquagesimo de la de los Estados-Unidos de America, per duplicado.

[L. s.] ANTONIO JOSE CAÑAS.

[L. s.] H. CLAY.

In faith whereof, we, the plenipotentiaries of the United States of America, and of the Federation of the Centre of America, have signed and sealed these presents.

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Done in the city of Washington, on the fifth day of December, in the year of our Lord one thousand eight hundred and twenty-five, in the fiftieth year of the Independence of the United States of America, and the fifth of that of the Federation of the Centre of America, in duplicate.

[L. s.] H. CLAY.
[L. s.] ANTONIO JOSE CAÑAS.

And whereas the said convention has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Guatemala, on the second day of August, one thousand eight hundred and twenty-six, by John Williams, Chargé d'Affaires of the United States, near the government of the Federation of the Centre of America, and Pedro Gonzales, chief officer of the department of state, despatch, war, and marine, Secretary of Legation of the Republic of Central America, near the governments of South America, on the part of their respective governments. Ratification.

Now, therefore, be it known, that I, JOHN QUINCY ADAMS, 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 witness 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-eighth day of October, in the year of our Lord one thousand eight hundred and twenty-six, and of the Independence of the United States the fifty-first.

[L. s.]

JOHN QUINCY ADAMS.

By the President:

H. CLAY, *Secretary of State.*

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TREATY WITH BRAZIL.

[*Negotiated in the English Language.*]

By the President of the United States of America. A Proclamation:

Whereas a Treaty or General Convention of Peace, Friendship, Commerce and Navigation, between the United States of America and his Majesty the Emperor of Brazil, was concluded and signed at Rio de Janeiro, on the twelfth day of December, 1828, which Treaty or General Convention is, word for word, as follows:

In the name of the Most Holy and Indivisible Trinity:

The United States of America, and his Majesty the Emperor of Brazil, desiring to establish a firm and permanent peace and friendship between both nations, have resolved to fix, in a manner clear, distinct, and positive, the rules which shall in future be religiously observed between the one and the other, by means of a treaty, or general convention of peace, friendship, commerce, and navigation.

Negotiators appointed to conclude a treaty.

For this most desirable object, the President of the United States has conferred full powers on William Tudor, their Chargé d'Affaires at the Court of Brazil; and his Majesty the Emperor of Brazil on the most illustrious and most excellent Marquez of Aracaty, a member of his council, gentleman of the imperial bed chamber, councillor of the treasury, grand cross of the order of Aviz, senator of the empire, minister and secretary of state for foreign affairs, and Miguel de Souza Mello e Alvim, a member of his council, commander of the order of Aviz, knight of the imperial order of the cross, chief of division in the imperial and national navy, minister and secretary of state for the marine, who, after having exchanged their said full powers in due and proper form, have agreed to the following articles:

Firm and inviolable peace, &c

ART. 1. There shall be a perfect, firm, and inviolable peace and friendship between the United States of America and their citizens, and his Imperial Majesty, his successors and subjects throughout their possessions and territories respectively, without distinction of persons or places.

Favors of commerce to be common to both parties.

ART. 2. The United States of America and his Majesty the Emperor of Brazil, desiring to live in peace and harmony with all the other nations of the earth, by means of a policy frank and equally friendly with all, engage, mutually, not to grant any particular favor to other nations in respect of commerce and navigation, which shall not immediately become common

to the other party, who shall enjoy the same freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional. It is understood, however, that the relations and conventions which now exist, or may hereafter exist, between Brazil and Portugal, shall form an exception to this article.

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ART. 3. The two high contracting parties, being likewise desirous of placing the commerce and navigation of their respective countries on the liberal basis of perfect equality and reciprocity, mutually agree that the citizens and subjects of each may frequent all the coasts and countries of the other, and reside and trade there, in all kinds of produce, manufactures, and merchandize; and they shall enjoy all the rights, privileges, and exemptions, in navigation and commerce, which native citizens do or shall enjoy, submitting themselves to the laws, decrees, and usages, there established, to which native citizens and subjects are subjected. But it is understood that this article does not include the coasting trade of either country, the regulation of which is reserved by the parties, respectively, according to their own separate laws.

Mutual benefits in trade and residence to be equally enjoyed.

ART. 4. They likewise agree, that whatever kind of produce, manufactures, or merchandize of any foreign country, can be, from time to time, lawfully imported into the United States, in their own vessels, may be also imported in vessels of Brazil; and that no higher or other duties upon the tonnage of the vessel and her cargo, shall be levied and collected, whether the importation be made in vessels of the one country, or of the other. And, in like manner, that whatever kind of produce, manufactures or merchandize, of any foreign country, can be, from time to time, lawfully imported into the Empire of Brazil, in its own vessels, may be also imported in vessels of the United States; and that no higher or other duties, upon the tonnage of the vessel and her cargo, shall be levied or collected, whether the importation be made in vessels of the one country, or of the other. And they agree, that whatever may be lawfully exported, or re-exported, from the one country, in its own vessels, to any foreign country, may, in like manner, be exported, or re-exported, in the vessels of the other country. And the same bounties, duties and drawbacks, shall be allowed and collected, whether such exportation or re-exportation, be made in vessels of the United States, or of the Empire of Brazil. The government of the United States, however, considering the present state of the navigation of Brazil, agrees that a vessel shall be considered as Bra-

Each party may carry its own produce to the republic of the other—equalization of duties established, and to be the basis of all trade.

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Importations
and exporta-
tions to be on a
reciprocal foot-
ing.

No partial pro-
hibitions to be
established.

Merchants,
commanders of
ships, and other
citizens of both
countries, &c.
to manage their
own business;
to be treated as
citizens of the
most favored
nation.

Citizens of nei-
ther of the con-
tracting parties
shall be liable
to any embar-
go, &c.

Whenever the
citizens of eith-
er party seek
refuge, in the
dominions, &c.
of the other,
they are to be
treated as
friends, &c.

zilian, when the proprietor and captain are subjects of Brazil and the papers are in legal form.

ART. 5. No higher or other duties shall be imposed on the importation into the United States of any articles, the produce or manufactures of the Empire of Brazil, and no higher or other duties shall be imposed on the importation into the Empire of Brazil, of any articles, the produce or manufactures of the United States, than are or shall be, payable on the like articles, being the produce or manufactures of any other foreign country; nor shall any higher or other duties or charges, be imposed in either of the two countries, on the exportation of any articles to the United States, or to the Empire of Brazil, respectively, than such as are payable on the exportation of the like articles to any other foreign country; nor shall any prohibition be imposed on the exportation or importation of any articles, the produce or manufactures of the United States, or of the Empire of Brazil, to or from the territories of the United States, or to or from the territories of the Empire of Brazil, which shall not equally extend to all other nations.

ART. 6. It is likewise agreed that it shall be wholly free for all merchants, commanders of ships, and other citizens or subjects of both countries, to manage themselves their own business in all ports and places subject to the jurisdiction of each other, as well with respect to the consignment and sale of their goods and merchandise by wholesale or retail, as with respect to the loading, unloading, and sending off their ships, they being in all these cases to be treated as citizens or subjects of the country in which they reside, or at least to be placed on a footing with the subjects or citizens of the most favored nation.

ART. 7. The citizens and subjects of neither of the contracting parties shall be liable to any embargo, nor be detained with their vessels, cargoes, merchandise or effects, for any military expedition, nor for any public or private purpose, whatever, without allowing to those interested a sufficient indemnification.

ART. 8. Whenever the citizens or subjects of either of the contracting parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions, of the other, with their vessels, whether merchant or of war, public or private, through stress of weather, pursuit of pirates, or enemies, they shall be received and treated with humanity, giving to them all favor and protection for repairing their ships, procuring provisions,

and placing themselves in a situation to continue their voyage without obstacle or hindrance of any kind.

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ART. 9. All the ships, merchandise, and effects belonging to the citizens or subjects of one of the contracting parties, which may be captured by pirates, whether within the limits of its jurisdiction, or on the high seas, and may be carried or found in the rivers, roads, ports, bays, or dominions, of the other, shall be delivered up to the owners, they proving in due and proper form, their rights before the competent tribunals; it being well understood that the claim should be made within the term of one year by the parties themselves, their attorneys, or agents of their respective governments.

All ships, &c. belonging to the citizens of either party captured by pirates, and found within the dominions of either, to be delivered up to the owners.

ART. 10. When any vessel belonging to the citizens or subjects of either of the contracting parties shall be wrecked, foundered, or shall suffer any damage on the coasts, or within the dominions of the other, there shall be given to them all assistance and protection in the same manner which is usual and customary with the vessels of the nation where the damage happens, permitting them to unload said vessel, if necessary, of its merchandise and effects, without exacting for it any duty, impost, or contribution whatever, until they may be exported, unless they be destined for consumption.

Assistance and protection to be rendered in case of wrecks, &c. within the dominions of each other.

ART. 11. The citizens or subjects of each of the contracting parties shall have power to dispose of their personal goods within the jurisdiction of the other, by sale, donation, testament, or otherwise, and their representatives, being citizens of the other party, shall succeed to the said personal goods, whether by testament or *ab intestato*, and they may take possession thereof, either by themselves or others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country, wherein the said goods are, shall be subject to pay in like cases: And if, in the case of real estate, the said heirs, would be prevented from entering into the possession of the inheritance, on account of their character of aliens, there shall be granted to them the term of three years to dispose of the same, as they may think proper, and to withdraw the proceeds without molestation, nor any other charges than those which are imposed by the laws of the country.

Citizens of each party shall have power to dispose of their goods and effects within the jurisdiction of the other, by sale, testament, or otherwise.

Alien heirs allowed 3 years to dispose of their property.

ART. 12. Both the contracting parties promise and engage, formally to give their special protection to the persons and property of the citizens and subjects of each other, of all occupations, who may be in their territories subject to the jurisdiction of the one or the other, transient or dwelling therein,

Complete protection in persons and property in the territories of both nations, legal redress, &c.

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leaving open and free to them the tribunals of justice for their judicial intercourse, on the same terms which are usual and customary, with the natives or citizens and subjects of the country in which they may be; for which they may employ, in defence of their rights, such advocates, solicitors, notaries, agents, and factors, as they may judge proper, in all their trials at law.

Liberty of conscience and rites of burial secured.

ART. 13. It is likewise agreed that the most perfect and entire security of conscience shall be enjoyed by the citizens or subjects of both the contracting parties, in the countries subject to the jurisdiction of the one and the other, without their being liable to be disturbed or molested on account of their religious belief, so long as they respect the laws and established usages of the country. Moreover, the bodies of the citizens and subjects of one of the contracting parties, who may die in the territories of the other, shall be buried in the usual burying grounds, or in other decent or suitable places, and shall be protected from violation or disturbance.

Both parties at liberty to trade with those at enmity with either, &c.

ART. 14. It shall be lawful for the citizens and subjects of the United States of America and of the Empire of Brazil, to sail with their ships, with all manner of liberty and security, no distinction being made, who are the proprietors of the merchandise laden thereon, from any port to the places of those who now are or who hereafter shall be, at enmity with either of the contracting parties. It shall likewise be lawful for the citizens and subjects aforesaid, to sail with the ships and merchandises before mentioned, and to trade with the same liberty and security from the places, ports, and havens, of those who are enemies of either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy, before mentioned, to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of one power or under several. And it is hereby stipulated, that free ships shall also give freedom to goods, and that every thing shall be deemed to be free and exempt, which shall be found on board the ships belonging to the citizens or subjects of either of the contracting parties although the whole lading, or any part thereof should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that although they be enemies to both or either party, they are not to be taken out of that free ship, unless they are officers or soldiers, and in the

Free ships to make free goods.

All persons on board, except those in the actual service of an enemy to be free.

actual service of the enemies: Provided, however, and it is hereby agreed, that the stipulations in this article contained, declaring that the flag shall cover the property, shall be understood as applying to those powers only who recognise this principle; but if either of the two contracting parties should be at war with a third, and the other neutral, the flag of the neutral shall cover the property of enemies whose governments acknowledge this principle, and not of others.

ART. 15. It is likewise agreed, that in the case where the neutral flag of one of the contracting parties shall protect the property of the enemies of the other, by virtue of the above stipulation, it shall always be understood that the neutral property found on board such enemies vessels shall be held and considered as enemies property, and as such shall be liable to detention and confiscation, except such property as was put on board such vessel before the declaration of war, or even afterwards, if it were done without the knowledge of it; but the contracting parties agree, that four months having elapsed after the declaration, their citizens shall not plead ignorance thereof. On the contrary, if the flag of the neutral does not protect the enemy's property, in that case the goods and merchandise of the neutral, embarked in such enemy's ship shall be free.

ART. 16. This liberty of commerce and navigation shall extend to all kinds of merchandises, excepting those only which are distinguished by the name of contraband, and under this name of contraband, or prohibited goods, shall be comprehended—

1st. Cannons, mortars, howitzers, swivels, blunderbusses, muskets, fuzées, rifles, carbines, pistols, pikes, swords, sabres, lances, spears, halberds, and grenades, bombs, powder, matches, balls, and all other things belonging to the use of these arms.

2dly. Bucklers, helmets, breast-plates, coats of mail, infantry belts, and clothes made up in the form and for a military use.

3dly. Cavalry belts, and horses with their furniture.

4thly. And generally all kinds of arms and instruments of iron, steel, brass and copper, or of any other materials manufactured, prepared and formed, expressly to make war by sea or land.

ART. 17. All other merchandise and things not comprehended in the articles of contraband expressly enumerated, and classified as above, shall be held and considered as free,

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Flag covering the property to be applied to those powers, only, who acknowledge the principle.

Enemy's property, to be protected by a neutral flag, must be shipped two months before declaration of war, &c.

Contraband specified.

Goods not contraband.

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Definition of
blockade.

Contraband on-
ly liable to con-
fiscation.

In cases of
blockade, ves-
sels to be noti-
fied but not de-
tained, &c.

Vessels enter-
ing before
blockade, may
quit unmolest-
ed, &c.

and subjects of free and lawful commerce, so that they may be carried and transported in the freest manner by both the contracting parties, even to places belonging to an enemy, excepting only those places which are at that time besieged or blockaded; and to avoid all doubt in this particular, it is declared that those places only are besieged or blockaded which are actually attacked by a belligerent force capable of preventing the entry of the neutral.

ART. 18. The articles of contraband, before enumerated and classified, which may be found in a vessel bound for an enemies port, shall be subject to detention and confiscation, leaving free the rest of the cargo and the ship, that the owners may dispose of them as they see proper. No vessel of either of the two nations shall be detained on the high seas on account of having on board articles of contraband, whenever the master, captain, or supercargo of said vessel will deliver up the articles of contraband to the captor, unless the quantity of such articles be so great, and of so large a bulk, that they cannot be received on board the capturing ship without great inconvenience; but in this and in all other cases of just detention, the vessel detained shall be sent to the nearest convenient and safe port, for trial and judgment according to law.

ART. 19. And whereas it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is besieged, blockaded, or invested, it is agreed, that every vessel so circumstanced, may be turned away from such port or place, but shall not be detained, nor shall any part of her cargo, if not contraband, be confiscated, unless, after warning of such blockade, or investment from any officer commanding a vessel of the blockading forces, she shall again attempt to enter; but she shall be permitted to go to any other port or place she shall think proper. Nor shall any vessel of either, that may have entered into such port before the same was actually besieged, blockaded or invested, by the other, be restrained from quitting such place with her cargo, nor if found therein after the reduction and surrender, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners thereof. And if any vessel having thus entered the port before the blockade took place, shall take on board a cargo after the blockade be established, she shall be subject to being warned by the blockading forces to return to the port blockaded, and discharge the said cargo, and if after receiving the said warning the vessel shall persist in going out with the cargo, she shall be liable to the same

consequences as a vessel attempting to enter a blockaded port after being warned off by the blockading forces.

ART. 20. In order to prevent all kind of disorder in the visiting and examination of the ships and cargoes of both the contracting parties on the high seas, they have agreed mutually, that whenever a vessel of war, public or private, shall meet with a neutral of the other contracting party, the first shall remain at the greatest distance compatible, with making the visit under the circumstances of the sea and wind and the degree of suspicion attending the vessel to be visited, and shall send its smallest boat, in order to execute the said examination of the papers concerning the ownership and cargo of the vessel, without causing the least extortion, violence, or ill treatment, for which the commanders of the said armed ships shall be responsible with their persons and property; for which purpose the commanders of the said private armed vessels shall, before receiving their commissions, give sufficient security to answer for all the damages they may commit; and it is expressly agreed, that the neutral party shall in no case be required to go on board the examining vessel, for the purpose of exhibiting her papers, or for any other purpose whatever.

ART. 21. To avoid all kind of vexation and abuse in the examination of the papers relating to the ownership of the vessels belonging to the citizens and subjects of the two contracting parties, they have agreed, and do agree, that in case one of them shall be engaged in war, the ships and vessels belonging to the citizens or subjects of the other, must be furnished with sea-letters or passports, expressing the name, property, and bulk of the ship, as also the name and place of habitation of the master or commander of said vessel, in order that it may thereby appear, that the ship really and truly belongs to the citizens or subjects of one of the parties; they have likewise agreed that such ships being laden, besides the said sea-letters or passports, shall also be provided with certificates containing the several particulars of the cargo, and the place whence the ship sailed, so that it may be known whether any forbidden or contraband goods be on board the same; which certificates shall be made out by the officers of the place whence the ship sailed, in the accustomed form; without such requisites said vessel may be detained, to be adjudged by the competent tribunal, and may be declared legal prize, unless the said defect shall be proved to be owing to accident, and be satisfied or supplied by testimony entirely equivalent.

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During a visit at sea, armed vessels to remain out of reach of cannon shot.

Neutrals not to go on board the examining vessel.

In case of war, sea letters, certificates of cargo, &c. to be furnished, expressing to whom the property belongs.

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Visiting regulations to apply only to vessels without convoy

Established courts only to try prize causes

Motives of condemnation to be stated.

The neutral party not to accept a commission to cruise against the other.

In case of war, 6 months allowed to those on the coast, and 12 for those in the interior to remove effects, &c.

And no sequestration of money in bank or public funds.

ART. 22. It is further agreed, that the stipulations above expressed, relative to the visiting and examining of vessels, shall apply only to those which sail without convoy; and when said vessels shall be under convoy, the verbal declaration of the commander of the convoy, on his word of honor, that the vessels under his protection belong to the nation whose flag he carries; and when they are bound to an enemies port, that they have no contraband goods on board, shall be sufficient.

ART. 23. It is further agreed, that in all cases the established courts for prize causes, in the countries to which the prizes may be conducted, shall alone take cognizance of them. And whenever such tribunal of either party shall pronounce judgment against any vessel or goods, or property claimed by the citizens or subjects of the other party, the sentence or decree shall mention the reasons or motives, on which the same shall have been founded, and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of said vessel, without any delay, he paying the legal fees for the same.

ART. 24. Whenever one of the contracting parties shall be engaged in war with another state, no citizen or subject of the other contracting party, shall accept a commission, or letter of marque, for the purpose of assisting, or co-operating hostilely, with the said enemy, against the said party so at war, under the pain of being treated as a pirate.

ART. 25. If, by any fatality which cannot be expected, and which God forbid, the two contracting parties should be engaged in a war with each other, they have agreed, and do agree, now for them, that there shall be allowed the term of six months to the merchants residing on the coasts and in the ports of each other, and the term of one year to those who dwell in the interior, to arrange their business and transport their effects wherever they please, giving to them the safe conduct necessary for it, which may serve as a sufficient protection until they arrive at the designated port. The citizens and subjects of all other occupations who may be established in the territories or dominions of the United States and of the Empire of Brazil, shall be respected and maintained in the full enjoyment of their personal liberty and property, unless their particular conduct shall cause them to forfeit this protection, which, in consideration of humanity, the contracting parties engage to give them.

ART. 26. Neither the debts due from individuals of the one nation to the individuals of the other, nor shares, nor money,

which they may have in public funds, nor in public nor private banks, shall ever, in any event of war, or national difference, be sequestrated or confiscated.

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ART. 27. Both the contracting parties being desirous of avoiding all inequality in relation to their public communications and official intercourse, have agreed, and do agree, to grant to the envoys, ministers, and other public agents, the same favors, immunities, and exemptions, which those of the most favored nation do or shall enjoy; it being understood that whatever favors, immunities, or privileges, the United States of America or the Empire of Brazil may find it proper to give the ministers and public agents of any other power, shall, by the same act, be extended to those of each of the contracting parties.

Official intercourse in relation to public ministers, &c. to be on a reciprocal footing.

ART. 28. To make more effectual the protection which the United States and the Empire of Brazil shall afford in future to the navigation and commerce of the citizens and subjects of each other, they agree to receive and admit consuls and vice-consuls in all the ports open to foreign commerce, who shall enjoy in them all the rights, prerogatives, and immunities, of the consuls and vice-consuls of the most favored nations; each contracting party, however, reserving at liberty to except those ports and places in which the admission and residence of such consuls may not seem convenient.

Each party permitted to have consuls in each others' ports.

ART. 29. In order that the consuls and vice-consuls of the two contracting parties may enjoy the rights, prerogatives, and immunities, which belong to them, by their public character, they shall, before entering on the exercise of their functions, exhibit their commission or patent in due form to the government to which they are accredited; and having obtained their *exequatur*, they shall be held and considered as such by all the authorities, magistrates, and inhabitants, in the consular district in which they reside.

Commissions to be exhibited before exequatur is obtained.

ART. 30. It is likewise agreed, that the consuls, their secretaries, officers, and persons attached to the service of consuls, they not being citizens of the country in which the consul resides, shall be exempt from all public service, and also from all kind of taxes, imposts, and contributions, except those which they shall be obliged to pay on account of commerce, or their property, to which the citizens or subjects and inhabitants, native and foreign, of the country in which they reside are subject; being in every thing besides subject to the laws of their respective states. The archives and papers of the consulate shall be respected inviolably, and under no

Consul exempt from public service—their archives inviolate,

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Consuls may call in the public authorities to aid in securing deserters, who are not to be detained more than 2 months in prison.

pretext whatever, shall any magistrate seize, or in any way interfere with them.

ART. 31. The said consuls shall have power to require the assistance of the authorities of the country for the arrest, detention, and custody of deserters from public and private vessels of their country, and for that purpose they shall address themselves to the courts, judges, and officers competent, and shall demand the said deserters in writing, proving by an exhibition of the registers of the vessels or ships roll, or other public documents, that those men were part of the said crews; and on this demand, so proved, (saving, however, where the contrary is proved,) the delivery shall not be refused. Such deserters, when arrested, shall be put at the disposal of the said consuls, and may be put in the public prison, at the request and expense of those who reclaim them, to be sent to the ships to which they belonged, or to others of the same nation. But if they be not sent back within two months, to be counted from the day of their arrest, they shall be set at liberty, and shall no more be arrested for the same cause.

Consular convention to be formed.

ART. 32. For the purpose of more effectually protecting their commerce and navigation, the two contracting parties do hereby agree, as soon hereafter as circumstances will permit them, to form a consular convention, which shall declare specially the powers and immunities of the consuls and vice-consuls of the respective parties.

The following points agreed to.

ART. 33. The United States of America and the Emperor of Brazil, desiring to make as durable as circumstances will permit, the relations which are to be established between the two parties by virtue of this treaty, or general convention of peace, amity, commerce, and navigation, have declared solemnly, and do agree to the following points:

Treaty to remain in force twelve years.

1st. The present treaty shall be in force for twelve years from the date hereof, and further until the end of one year after either of the contracting parties shall have given notice to the other, of its intention to terminate the same: each of the contracting parties reserving to itself the right of giving such notice to the other, at the end of said term of twelve years: and it is hereby agreed between them, that on the expiration of one year after such notice shall have been received by either, from the other party, this treaty in all the parts relating to commerce and navigation, shall altogether cease and determine, and in all those parts which relate to peace and friendship, it shall be permanently and perpetually binding on both powers.

Peace perpetual.

2ndly. If any one or more of the citizens or subjects of either party shall infringe any of the articles of this treaty, such citizen or subject shall be held personally responsible for the same, and the harmony and good correspondence between the nations shall not be interrupted thereby; each party engaging in no way to protect the offender, or sanction such violation.

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Citizens responsible for infringing this article.

3dly. If, (which indeed, cannot be expected) unfortunately, any of the articles contained in the present treaty shall be violated or infringed in any way whatever, it is expressly stipulated, that neither of the contracting parties will order or authorize any acts of reprisal, nor declare war against the other, on complaints of injuries or damages, until the said party considering itself offended, shall first have presented to the other a statement of such injuries or damages, verified by competent proof, and demanded justice and satisfaction, and the same shall have been either refused or unreasonably delayed.

War not to be declared, until remonstrance is made, and satisfaction is refused.

4thly. Nothing in this treaty contained, shall, however, be construed, or operate contrary to former and existing public treaties with other sovereigns or states.

Other treaties not to be contravened by this.

The present treaty of peace, amity, commerce, and navigation, shall be approved and ratified by the president of the United States by and with the advice and consent of the senate thereof, and by the Emperor of Brazil, and the ratifications shall be exchanged within eight months from the date of the signature hereof, or sooner if possible.

Ratification within eight months.

In faith whereof, we, the plenipotentiaries of the United States of America, and of his Majesty the Emperor of Brazil, have signed and sealed these presents.

Done in the city of Rio de Janeiro, this twelfth day of December, in the year of our Lord Jesus Christ, one thousand eight hundred and twenty-eight.

(Signed)

W. TUDOR, [L. s.]
MARQUEZ de ARACATY, [L. s.]
MIGUEL de SOUZA MELLO e ALVIM, [L. s.]

And whereas, the said Treaty or General Convention has been duly ratified on both parts, and the respective ratifications of the same have, this day, been exchanged at Washington, by James A. Hamilton, acting secretary of state of

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the United States, and the Chevalier Je. Silvestre Rebello, chargé d'affaires of his Majesty the Emperor of Brazil, on the part of their respective governments:

Now, therefore, be it known, that I, ANDREW JACKSON, President of the United States of America, have caused the said Treaty or General 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 witness 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 eighteenth day of March, in the year of our Lord one thousand [L. s.] eight hundred and twenty-nine, and of the Independence of the United States the fifty-third.

ANDREW JACKSON.

By the President:

JAMES A. HAMILTON, *acting Secretary of State.*

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Treaty of Amity, Commerce and Navigation between the United States of America. and the United Mexican States.

By the President of the United States of America. A Proclamation.

WHEREAS a treaty of amity, commerce and navigation, between the United States of America and the United Mexican States, was concluded and signed by the Plenipotentiaries of the two countries, at Mexico, on the fifth April, one thousand eight hundred and thirty-one; which treaty is word for word as follows:

The United States of America and the United Mexican States, desiring to establish upon a firm basis the relations of friendship that so happily subsist between the two Republics, have determined to fix in a clear and positive manner the rules which shall in future be religiously observed between both, by means of a treaty of Amity, Commerce, and Navigation. For which important object, the President of the United States of America has appointed Anthony Butler, a citizen of the United States, and Chargé d'Affaires of the United States of America near the United Mexican States, with full powers; and the Vice-President of the United Mexican States, in the exercise of the Executive power, having conferred like full powers on his Excellency Lucas Alaman, Secretary of State for Home and Foreign Affairs, and his Excellency Raphael Mangino, Secretary of the Treasury; and the aforesaid Plenipotentiaries after having compared and exchanged in due form their several powers as aforesaid, have agreed upon the following articles:

Los Estados Unidos de America y los Estados Unidos Mexicanos deseosos de afirmar sobre bases solidas las relaciones de amistad y comercio que felizmente ecisten entre ambas Repúblicas, han resuelto fijar de una manera clara y positiva las reglas que han de observarse en lo sucesivo religiosamente entre ambas, por medio de un tratado de Amistad, Comercio, y Navegacion. Para cuyo importante objeto, el Presidente de los Estados Unidos de America há conferido plenos poderes al ciudadano de los mismos Estados Antonio Butler, Encargado de Negocios cerca de los Estados Unidos Mexicanos; y el Vice-Presidente de los Estados Unidos Mexicanos en ejercicio del poder Ejecutivo al Ecselentisimo Señor Don Lucas Alaman, Secretario de Estado y del Despacho de Relaciones Exteriores é Interiores, y al ecselentisimo Señor Don Rafael Mangino. Secretario de Estado y del Despacho de Hacienda; los cuales, despues de haber cambiado sus plenos poderes, han convenido en los articulos siguientes:

Object—amicable adjustment of commerce and navigation.

Negotiators.

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Universal peace
and sincere
friendship.

ART. 1. There shall be a firm, inviolable, and universal peace, and a true and sincere friendship between the United States of America and the United Mexican States in all the extent of their possessions and territories, and between their people and citizens respectively, without distinction of persons or places.

Basis—perfect
equality and
reciprocity.

ART. 2. The United States of America and the United Mexican States, designing to take for the basis of their agreement the most perfect equality and reciprocity, engage mutually not to grant any particular favor to other nations in respect of commerce and navigation, which shall not immediately become common to the other party; who shall enjoy the same freely, if the concession was freely made, or upon the same conditions, if the concession was conditional.

Freedom to vi-
sit all ports, hire
warehouses, &c.

ART. 3. The citizens of the two countries respectively shall have liberty, freely and securely to come with their vessels and cargoes to all such places, ports, and rivers of the United States of America and of the United Mexican States, to which other foreigners are permitted to come; to enter into the same and to remain and reside in any part of the said territories respectively; also, to hire and occupy houses and warehouses for the purposes of their commerce, and to trade therein, in all sorts of produce, manufactures, and merchandize; and, generally, the merchants and traders of each nation shall enjoy the most complete protection and security for their commerce.

Duties, &c.
same as most
favored nations.

And they shall not pay higher or other duties, imposts, or fees whatsoever, than those which the most favored nations are or may be obliged to pay; and shall enjoy all the rights, privileges and exemptions, with respect to navigation and commerce, which the citizens of the most favored nations do or may enjoy; but subject always to the laws, usages, and statutes of the two countries respectively.

Coasting trade
always except-
ed.

The liberty to enter and discharge the vessels of both nations of which this article treats, shall not be understood to authorize the coasting trade, which is permitted to national vessels only.

Duties on im-
portation into
Mexico, same
as on like arti-
cles into the
United States.

ART. 4. No higher or other duties shall be imposed on the importation into the United Mexican States of any article the produce, growth, or manufacture of the United States of America, than those which the same or like articles, the produce, growth, or manufacture of any other foreign country do now or may hereafter pay; nor shall articles, the produce, growth, or manufacture of the United Mexican States, be sub-

ART. 1. Habrá una firme, inviolable y universal paz, y una sincera y verdadera amistad entre los Estados Unidos de America y los Estados Unidos Mexicanos en toda la estension de sus posesiones y territorios, y entre sus pueblos y ciudadanos, respectivamente, sin distincion de personas ó lugares.

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ART. 2. Los Estados Unidos de America y los Estados Unidos Mexicanos, deseando tomar por base de este convenio la mas perfecta igualdad y reciprocidad, se comprometen mutuamente á no conceder ningun favor particular á otras naciones, en lo respectivo á comercio y navegacion, que no venga á ser inmediatamente comun á la otra parte; la cual deberá gozarlo libremente, á bajo las mismas condiciones, si la concesion fuese condicional.

ART. 3. Los ciudadanos de los dos paises respectivamente, tendrán libertad, franquicia y seguridad para ir con sus buques y cargamentos á todas las plazas, puertos, y rios de los Estados Unidos de America y de los Estados Unidos Mexicanos, á los que á otros estrangeros es permitido ir, entrar y permanecer en cualquiera parte de los dichos territorios respectivamente; asi como arrendar y ocupar casas y almacenes para los fines de su comercio, y comerciar en ellos en toda clase de productos, manufacturas y mercancías; y en general, los comerciantes y negociantes de cada nacion, gozarán la mas completa proteccion y seguridad para su comercio.

Y no pararán otros ni mas altos derechos impuestos ó emolumentos, cualquiera que sean, que los que esten ó estuvieren obligadas á pagar las naciones mas favorecidas; y gozarán todos los derechos, privilegios, ecesiones, con respecto á la navegacion y comercio, que los ciudadanos de la nacion mas favorecida gozen ó gozaren; pero sugetos siempre á las leyes, usos y estatutos de las dos naciones respectivamente.

La libertad de entrar y descargar los buques de ambas naciones de que habla este articulo, no se entenderá que autoriza el comercio de escala y cabotaje permitido solamente á los buques Nacionales

ART. 4. No se impondrán otros ni mayores derechos á la importacion en los Estados Unidos de America de articulo alguno de producto natural, ó manufactura, de los Estados Unidos Mexicanos, que los que pagan, ó en adelante pagaren, los mismos ó semejantes articulos de producto natural ó manufactura de cualquiera otro pais estranero. Los articulos de producto natural ó manufactura de los Estados Unidos de America, no estarán sugetos en su introduccion en los Estados

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ject on their introduction into the United States of America, to higher or other duties than those which the same or like articles of any other foreign country do now or may hereafter pay.

Export duties, same as to other foreign nations.

Higher duties shall not be imposed in the respective States on the exportation of any article to the States of the other contracting party, than those which are now or may hereafter be paid on the exportation of the like articles to any other foreign country; nor shall any prohibition be established on the exportation or importation of any article, the produce, growth, or manufacture of the United States of America, or of the United Mexican States respectively, in either of them, which shall not in like manner be established with respect to other foreign countries.

Light or harbour dues, pilotage and salvage, same as in U. States.

ART. 5. No higher or other duties or charges on account of tonnage, light or harbor dues, pilotage, salvage in case of damage or shipwreck, or any other local charges, shall be imposed, in any of the ports of Mexico on vessels of the United States of America than those payable in the same ports by Mexican vessels; nor in the ports of the United States of America, on Mexican vessels, than shall be payable in the same ports on vessels of the United States of America.

Duties, drawbacks, &c. on imports or exports, same, whether made in Mexican or United States vessels, of the growth of either country.

ART. 6. The same duties shall be paid on the importation into the United Mexican States, of any article, the growth, produce, or manufacture of the United States of America, whether such importation shall be in Mexican vessels or in vessels of the United States of America; and the same duties shall be paid on the importation into the United States of America, of any article, the growth, produce, or manufacture of Mexico, whether such importation shall be in vessels of the United States of America or in Mexican vessels. The same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation to Mexico of any articles, the growth, produce, or manufacture of the United States of America, whether such exportation shall be in Mexican vessels or in vessels of the United States of America; and the same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation of any articles, the growth, produce, or manufacture of Mexico, to the United States of America, whether such exportation shall be in vessels of the United States of America or in Mexican vessels.

Unidos Mexicanos, á otros ni mas altos derechos que aquellos que los mismos ó semejantes articulos de cualquiera otro pais extranjero paguen ahora ó puedan pagar en adelante.

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No se impondrán mayores derechos en los Estados respectivos, a la esportacion de articulo alguno á los Estados de la otra parte contratante que los que ahora ó despues sean pagados en la esportacion de los mismos articulos á algun otro pais extranjero; ni ninguna prohibicion será establecida en la esportacion ó importacion de cualquier articulo, producto natural ó manufactura de los Estados Unidos de America ó los Estados Unidos Mexicanos respectivamente, en alguno de ellos, que del mismo modo no se establezca igualmente con respecto á otros paises extranjeros.

ART. 5. No se impondrán otros ni mas altos derechos ni cargas, por razon de toneladas, fanal, emolumentos de puerto, practico, derechos de salvamento en caso de perdida ó naufragio, ni ningunas otras cargas locales, en ninguno de los puertos de los Estados Unidos de America, á los buques de los Estados Unidos Mexicanos, sino los que unicamente pagan en los mismos puertos los buques de los Estados Unidos de America; ni en los puertos de los Estados Unidos Mexicanos se impondrán á los buques de los Estados Unidos de America otras cargas que las que en los mismos puertos paguen los buques Mexicanos.

ART. 6. Se pagarán los mismos derechos de importacion en los Estados Unidos de America, por los articulos de productos naturales y manufacturas de los Estados Unidos Mexicanos, bien sean importados en buques de los Estados Unidos de America ó en buques Mexicanos; y los mismos derechos se pagarán por la importacion en los Estados Unidos Mexicanos de cualquiera articulo de producto natural ó manufactura de los Estados Unidos de America, sea que su importacion se verifique en buques Mexicanos ó de los Estados Unidos de America. Los mismos derechos pagarán, y gozarán las mismas franquicias y descuentos concedidos á la esportacion á Mexico de cualquiera articulos de los productos naturales ó manufacturas de los Estados Unidos de America, sea que la esportacion se haga en buques Mexicanos ó en buques de los Estados Unidos de America, y los mismos derechos se pagarán y se concederán las mismas franquicias y descuentos á la esportacion de cualquiera articulos de producto natural ó manufactura de Mexico á los Estados Unidos de America, sea que la esportacion se haga en buques de los Estados Unidos de America ó en buques Mexicanos.

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Brokers, factors, &c. to be chosen as the parties may think fit.

ART. 7. All merchants, captains or commanders of vessels, and other citizens of the United States of America, shall have full liberty in the United Mexican States to direct or manage themselves, their own affairs, or to commit them to the management of whomsoever they may think proper, either as broker, factor, agent, or interpreter; nor shall they be obliged to employ for the aforesaid purposes any other persons than those employed by Mexicans, nor to pay them higher salaries or remuneration than such as are in like cases paid by Mexicans: and absolute freedom shall be allowed in all cases to the buyer and seller to bargain and fix the prices of any goods, wares, or merchandise imported into, or exported from, the United Mexican States, as they may think proper; observing the laws, usages, and customs of the country. The citizens of Mexico shall enjoy the same privileges in the States and Territories of the United States of America, being subject to the same conditions.

No embargo or detention without compensation.

ART. 8. The citizens of neither of the contracting parties shall be liable to any embargo, nor shall their vessels, cargoes, merchandise, or effects, be detained for any military expedition, nor for any public or private purpose whatsoever, without a corresponding compensation.

Exemption from compulsory service.

ART. 9. The citizens of both countries, respectively, shall be exempt from compulsory service in the army or navy; nor shall they be subjected to any other charges, or contributions, or taxes, than such as are paid by the citizens of the States in which they reside.

Refuge from stress of weather, enemies, &c. provided for.

ART. 10. Whenever the citizens of either of the contracting parties shall be forced to seek refuge or asylum in the rivers, bays, ports or dominions of the other with their vessels, whether merchant or of war, public or private, through stress of weather, pursuit of pirates or enemies, they shall be received and treated with humanity, with the precautions which may be deemed expedient on the part of the respective Governments in order to avoid fraud, giving to them all favor and protection for repairing their vessels, procuring provisions, and placing themselves in a situation to continue their voyage without obstacle or hinderance of any kind.

Vessels, &c. captured by pirates, to be given up.

ART. 11. All vessels, merchandise, or effects, belonging to the citizens of one of the contracting parties, which may be captured by pirates, whether within the limits of its jurisdiction, or on the high seas, and may be carried into or found in the rivers, bays, ports, or dominions of the other, shall be delivered up to the owners, they proving, in due and proper

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ART. 7. Todo comerciante, comandante de buque, y otros ciudadanos de los Estados Unidos de America gozarán de libertad completa en los Estados Unidos Mexicanos para dirigir ó girar por si sus propios negocios ó para encargar su manejo a quien mejor les parezca, sea corredor, factor, agente ó interprete; y no se le obligará á emplear para estos objetos á ningunas otras personas que aquellas que se emplean por los Mexicanos, ni estarán obligados á pagarles mas salario ó remuneracion que la que en semejantes casos pagan los Mexicanos, y se concederá libertad absoluta en todos los casos al comprador ó vendedor para ajustar y fijar el precio de cualesquiera efectos, articulos ó mercancías importadas ó esportadas de los Estados Unidos Mexicanos, como lo crean conveniente observando las leyes, usos y costumbres establecidas en el pais. Los ciudadanos de Mexico gozarán los mismos privilegios en los Estados y Territorios de los Estados Unidos de America, quedando sujetos á las mismas condiciones.

ART. 8. Los ciudadanos de las partes contratantes no estarán sujetos á embargo, ni sus buques, cargamentos mercancías ó efectos serán detenidos para ninguna expedicion militar, ni para ningun otro objeto público ó privado, cualquiera que sea, sin una compensacion correspondiente.

ART. 9. Los ciudadanos de ambos paises respectivamente, estarán exentos de todo servicio militar forzoso en el ejercito ó armada; ni estarán sujetos á ningunas otras cargas, contribuciones ó impuestos, que aquellas que son pagadas por los ciudadanos de los Estados en que residen.

ART. 10. Siempre que los ciudadanos de cualquiera de las partes contratantes se vean precisados á buscar refugio ó asilo en los rios, bahias, puertos ó dominios de la otra con sus buques, ya sean mercantes, ó de guerra, ó armados en corso, á causa de un temporal persecucion de piratas ó enemigos, serán recibidos y tratados con humanidad, previas las precauciones que se juzgen convenientes por parte del respectivo Gobierno para evitar el fraude, concediendoles todo favor y proteccion para reparar sus buques, procurar provisiones y ponerse en estado de continuar su viaje, sin obstaculo ó impedimento de ninguna clase.

ART. 11. Todo buque, mercancia y efectos, pertenecientes á ciudadanos de alguna de las partes contratantes, que sean apresados por piratas, ya sea dentro de los limites de su jurisdiccion ó en alta mar, y que fueren conducidos ó encontrados en los rios, bahias, puertos ó dominios de la otra, serán entregados á sus dueños, provando estos en debida forma sus

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form, their rights before the competent tribunal; it being well understood that the claim shall be made within one year, counting from the capture of said vessels or merchandise by the parties themselves, or their attorneys, or by the agents of the respective Governments.

Assistance in
case of wreck,
&c.

ART. 12. When any vessel belonging to the citizens of either of the contracting parties, shall be wrecked, foundered, or shall suffer any damage on the coasts or within the dominions of the other, there shall be given to it all the assistance and protection in the same manner which is usual and customary with the vessels of the nation where the damage happens; permitting them to unload the said vessel, if necessary, of its merchandise effects, with the precautions which may be deemed expedient on the part of the respective Governments. in order to avoid fraud, without exacting for it any duty, impost, or contribution whatever, until they be exported.

Right of disposal
of property,
by will or sale,
same as native
citizens.

ART. 13. In whatever relates to the succession of [personal] estates, either by will or *ab intestato* [and the right of] disposal of such property, of whatever sort or denomination it may be, by sale, donation, exchange, or testament, or in any other manner whatsoever, the citizens of the two contracting parties shall enjoy, in their respective States and Territories, the same privileges, exemptions, liberties, and rights, as native citizens; and shall not be charged, in any of these respects, with other or higher duties or impost, than those which are now, or may hereafter be paid by the citizens of the power in whose territories they may reside.

Special protection
to persons
and property;
tribunals of
justice open, &c.

ART. 14. Both the contracting parties promise and engage to give their special protection to the persons and property of the citizens of each other, of all occupations, who may be in their territories, subject to the jurisdiction of the one or of the other, transient or dwelling therein; leaving open and free to them the tribunals of justice for their judicial recourse, on the same terms which are usual and customary with the natives or citizens of the country in which they may be; for which they may employ, in defence of their rights, such advocates, solicitors, notaries, agents, and factors, as they may judge proper, in all their trials at law; and the citizens of either party, or their agents, shall enjoy, in every respect, the same rights and privileges, either in prosecuting or defending their rights of person or of property, as the citizens of the country where the cause may be tried.

ART 15. The citizens of the United States of America, residing in the United Mexican States, shall enjoy in their

derechos ante el tribunal competente; bien entendido que el reclamo deberá hacerse dentro del termino de un año contado desde la captura de dichos buques ó mercancías, por los mismos interesados, sus apoderados ó por los agentes de sus Gobiernos respectivos.

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ART. 12. Cuando algun buque perteneciente à ciudadanos de alguna de las partes contratantes, naufrague, vaya á pique, ó sufra cualquiera averia, en las costas ó dentro de los dominios de la otra, se le dispensará toda la asistencia y proteccion, del mismo modo que es de uso y costumbre con los buques de la nacion en que acontece el daño; permitiendoles descargar las mercancías y efectos del mismo buque si fuere necesario con las precauciones que se estimen convenientes por parte de los Gobiernos respectivos, para evitar el fraude, sin ecsigir por ello ningun impuesto ó contribucion cualquiera que sean, hasta que sean esportadas.

ART. 13. Por lo que toca á la sucesion de las propiedades personales por testamento ó ab-intestato, y al derecho de disponer de la propiedad personal de cualquiera clase ó denominacion, por venta, donacion, permuta ó testamento, ó de otro modo cualquiera los ciudadanos de las dos partes contratantes gozarán en sus respectivos Estados y Territorios los mismos privilegios, ecsenciones, libertades y derechos que si fueran ciudadanos nativos; y no se les cargara en ninguno de estos puntos ó casos, mayores impuestos ó derechos que los que pagan ó en adelante pagaren los ciudadanos nativos de la potencia en cuyo territorio residan.

ART. 14. Ambas partes contratantes prometen y formalmente se obligan á conceder su especial proteccion á las personas y propiedades de los ciudadanos de cada una de ellas, en todas clases que puedan ecsistir en sus territorios sugetos á la jurisdiccion de la una ó de la otra, transeuntes ó radicados en ellos; dejandoles abiertos y libres los tribunales de justicia para sus recursos judiciales, de la misma manera que es uso y costumbre con los nacionales ó ciudadanos del pais en que residan; á cuyo efecto podrán emplear en defensa de sus derechos, los abogados, procuradores, escrivanos, agentes y factores que juzgen á proposito en todos sus juicios; y dichos ciudadanos ó sus agentes gozarán en todo, los mismos derechos y privilegios en la prosecucion ó defensa de sus personas ó propiedades que disfrutan los ciudadanos del pais en donde la causa sea seguida.

ART. 15. Los ciudadanos de los Estados Unidos de America residentes en los Estados Unidos Mexicanos, gozarán

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Liberty of con-
science, and
privilege of
sepulchre.

houses, persons, and properties, the protection of the government, with the most perfect security and liberty of conscience: they shall not be disturbed or molested, in any manner, on account of their religion, so long as they respect the constitution, the laws, and established usages of the country where they reside; and they shall also enjoy the privilege of burying the dead in places which now are, or may hereafter be assigned for that purpose; nor shall the funerals or sepulchres of the dead be disturbed in any manner, nor under any pretext.

The citizens of the United Mexican States shall enjoy, throughout all the States and Territories of the United States of America, the same protection; and shall be allowed the free exercise of their religion, in public or in private, either within their own houses, or in the chapels or places of worship set apart for that purpose.

Free trade with
those at enmity
with either
party.

ART. 16. It shall be lawful for the citizens of the United States of America, and of the United Mexican States respectively, to sail with their vessels with all manner of security and liberty, no distinction being made, who are the owners of the merchandise laden thereon, from any port to the places of those who are now, or may hereafter be at enmity with the United States of America or with the United Mexican States. It shall likewise be lawful for the aforesaid citizens respectively to sail with their vessels and merchandise, before mentioned, and to trade with the same liberty and security from the places, ports, and havens of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy, before mentioned, to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same government or under several; and it is hereby stipulated that free ships shall also give freedom to goods; and that every thing shall be deemed free and exempt which shall be found on board the vessels belonging to the citizens of either of the contracting parties, although the whole lading or any part thereof, should appertain to the enemies of either, contraband goods being always excepted. It is also agreed that the same liberty be extended to persons who are on board a free vessel, so that, although they be enemies to either party, they shall not be made prisoners, or taken out of that free vessel, unless they are soldiers, and in the actual service of the enemy. By the

Free ships
make free
goods.

The flag to pro-
tect passengers.

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en sus casas, personas y propiedades, de la proteccion del Gobierno y continuando en la posesion en que estan; no serán alterados inquietados ni molestados, de ninguna manera por motivos de su religion, con tal que respeten la de la nacion en que residan, y la Constitucion, leyes, usos y costumbres de esta; asi mismo continuarán en la facultad de que gozan para enterrar en los lugares señalados ó que en adelante se señalaren á este objeto, á los ciudadanos de los Estados Unidos de America que mueran en los Estados Unidos Mexicanos: y les funerales y sepulcros de los muertos no serán turbados de modo alguno, ni por ningun pretesto.

Los ciudadanos de los Estados Unidos Mexicanos gozarán en todos los Estados y Territorios de los Estados Unidos de America, de la misma proteccion; y podrán ejercer libremente su religion en público ó en privado dentro de sus casas ó en los templos y lugares destinados al culto.

ART. 16 Será permitido á todos y cada uno de los ciudadanos de los Estados Unidos de America, y de los Estados Unidos Mexicanos poder navegar libre y seguramente con sus embarcaciones sin que haya la menor escepcion por este respecto aunque los propietarios de las mercaderias cargadas en dichas embarcaciones procedan de cualquiera puerto, y sean destinadas a cualquiera plaza de una potencia enemiga, ó que lo sea despues, asi de los Estados Unidos de America, como de los Estados Unidos Mexicanos. Se permitirá igualmente á los ciudadanos repectivamente navegar con sus buques y mercaderias y frecuentar con igual libertad y seguridad las plazas y puertos en las potencias enemigas de las partes contratantes, ó de una de ellas, sin oposicion ú obstaculo, y de comerciar no solo desde los puertos de dicho enemigo, á un puerto neutro directamente, sino tambien desde un enemigo á otro tal, bien se encuentre bajo su jurisdiccion, ó bajo las de muchos; y se estipula tambien que los buques libres asegurarán igualmente la libertad de las mercancias; y que se juzgarán libres todos los efectos que se hallasen á bordo de los buques que perteneciesen á ciudadanos de una de las partes contratantes, aun cuando el cargamento por entero, ó parte de el fuese de los enemigos de una de las dos, bien entendido sin embargo que el contrabando se esceptua siempre. Se há convenido asi mismo que la propia libertad gozarán los sujetos que puedan encontrarse á bordo del buque libre, aun cuando fuesen enemigos de una de las dos partes contratantes; y por lo tanto no se podrá hacerlos prisioneros ni separarlos de

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Flag to cover property to apply to those who acknowledge the principle.

stipulation that the flag shall cover the property, the two contracting parties agree 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 party, and the other neutral, the flag of the neutral shall cover the property of enemies whose governments acknowledge this principle, and not of others.

Neutral property on board enemy vessels, to be considered enemies' property, and liable to confiscation.

ART. 17. It is likewise agreed that in the case where the neutral flag of one of the contracting parties shall protect the property of the enemies of the other, by virtue of the above stipulation, it shall always be understood that the neutral property found on board such enemies' vessels shall be held and considered as enemies' property, and as such shall be liable to detention and confiscation, except such property as was put on board such vessel before the declaration of war, or even afterwards, if it were done without the knowledge of it: but the contracting parties agree that four months having elapsed after the declaration, their citizens shall not plead ignorance thereof; on the contrary, if the flag of the neutral does not protect the enemy's property, in that case the goods and merchandises embarked in such enemy's vessel shall be free.

Contraband specified.

ART. 18. This liberty of commerce and navigation shall extend to all kinds of merchandise, excepting those only which are distinguished by the name of contraband; and under this name of contraband or prohibited goods, shall be comprehended, first, cannons, mortars, howitzers, swivels, blunderbusses, muskets, fuses, rifles, carbines, pistols, pikes, swords, sabres, lances, spears, halberts; and grenades, bombs, powder, matches, balls, and all other things belonging to the use of these arms; secondly, bucklers, helmets, breast-plates, coats of mail, infantry belts, and clothes made up in a military form, and for a military use; thirdly, cavalry belts and horses with their furniture; fourthly, and generally, all kinds of arms, and instruments of iron, steel, brass and copper, or of any other materials manufactured, prepared and formed expressly to make war by sea or land.

Things not enumerated free and lawful.

ART. 19. All other merchandise and things not comprehended in the articles of contraband expressly enumerated and classified as above, shall be held and considered as free, and subjects of free and lawful commerce, so that they may be carried and transported in the freest manner by both the contrac-

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dichos buques, á menos que sean militares, y estén á la sazón empleados en el servicio del enemigo. Por la estipulación de que la bandera cubre la propiedad, han convenido las dos partes contratantes en que esto entiende así respecto de aquellas potencias que reconozcan este principio; pero que si una de las dos partes contratantes estubiese en guerra con una tercera, y la otra neutral, la bandera de esta neutral cubrirá la propiedad de los enemigos cuyo Gobierno reconozca este principio, y no de otros.

ART. 17. Se conviene tambien que en caso de que el pavellon neutral de una de las partes contratantes proteja la propiedad de los enemigos de la otra en virtud de la referida estipulación, se entenderá siempre que la propiedad neutral encontrada á bordo de los referidos buques enemigos se tendrá y considerará como propiedad enemiga, y como tal estará sujeta á detencion y confiscacion, excepto aquella propiedad que haya sido embarcada en tal buque antes de declaracion de guerra, y aun despues si se há hecho sin noticia de tal declaracion; pero las partes contratantes convienen en que cuatro meses despues de la declaracion, sus ciudananos no alegarán ignorancia; al contrario, si el pavellon del buque neutral no protege la propiedad enemiga, en este caso los efectos y mercancías del neutral embarcados en tal buque enemigo serán libres.

ART. 18. Esta libertad de navegacion y comercio será extensiva á todo genero de mercancías exceptuando solamente las que se distinguen con el nombre de contrabando; y bajo esta calificacion ó la de efectos prohibidos se comprenderán, primero, cañones, morteros, obuses, pedreros, trabucos, fusiles, escopetas, carabinas, comunes y rayadas, pistolas, picas, espadas, sables, lanzas, arpones, alabardas y granadas, bombas, polvora, mechas, balas y otras cosas que pertenecen á el uso de armas: segundo, escudos, yelmos, petos, cotas de maya, cinturones de infanteria, y uniformes ó vestidos propios para la tropa; tercero, cinturones de caballeria y caballos con sus arneses; cuarto, y generalmente toda clase de armas é instrumentos en hierro, acero, bronce y cobre ú otros materiales manufacturados, preparados y formados a proposito para hacer la guerra por mar ó por tierra.

ART. 19. Cualesquiera otras mercancías y cosas no comprendidas en los articulos en contrabando enumerados y clasificados explicitamente como queda dicho, se tendrán y considerarán libres, y de libre y legal comercio, de modo que podrán llevarse y transportarse de la manera mas libre por

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ting parties, even to places belonging to an enemy, excepting only those places which are at that time besieged or blockaded; and to avoid all doubt in that particular, it is declared that those places only are besieged or blockaded, which are actually besieged or blockaded by a belligerent force capable of preventing the entry of the neutral.

Contraband articles only to be condemned—the rest of the cargo to be free.

ART. 20. The articles of contraband before enumerated and classified, which may be found in a vessel bound for the enemy's port, shall be subject to detention and confiscation, leaving free the rest of the cargo and the vessel, that the owners may dispose of them as they see proper. No vessels of either of the two nations shall be detained on the high seas on account of having on board articles of contraband, whenever the master, captain, or supercargo of said vessel will deliver up the articles of contraband to the captor, unless the quantity of such articles be so great and of so large a bulk, that they cannot be received on board the capturing vessel without great inconvenience; but in this, and in all other cases of just detention, the vessel detained shall be sent to the nearest convenient and safe port for trial and judgment, according to law.

In case of blockade, warning to be given.

ART. 21. And, whereas it frequently happens that vessels sail for a port or place belonging to an enemy without knowing that the same is besieged, blockaded, or invested, it is agreed that every vessel so situated may be turned away from such port or place, but shall not be detained; nor shall any part of her cargo, if not contraband, be confiscated, unless, after warning of such blockade or investment from the commanding officer of the blockading force, she should again attempt to enter the aforesaid port; but she shall be permitted to go to any other port or place she may think proper. Nor shall any vessel of either of the contracting parties, that may have entered into such port before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her cargo; nor if found therein after the surrender, shall such vessel or her cargo be liable to confiscation, but she shall be restored to the owner thereof.

Rules of visit to be established.

ART. 22. In order to prevent all kinds of disorder in the visiting and examination of the vessels and cargoes of both the contracting parties on the high seas, they have agreed, mutually, that, whenever a vessel of war, public or private, should meet with a neutral vessel of the other contracting party, the first shall remain out of cannon shot, and may send his boat, with two or three men only, in order to execute the said

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ambas partes contratantes aun á parages pertenecientes á enemigos, esceptuando solo aquellos que á la sazón estubiesen sitiados ó bloqueados; y para evitar toda duda en este particular, se declara que solo se considerarán bloqueados ó sitiados aquellos puntos que se hallen sitiados ó bloqueados por una fuerza beligerante capaz de impedir la entrada á los neutrales.

ART. 20. Los artículos de contrabando enumerados y clasificados arriba que se encuentren en un buque que navega para puerto enemigo, estarán sujetos á detencion y confiscacion, dejando libre el resto del cargamento y el buque para que los dueños dispongan lo que les parezca. Ningun buque de ambas naciones será detenido en alta mar por conducir á bordo artículos de contrabando, siempre que el dueño, capitán ó sobrecargo del referido buque los entregue al apresador, á menos que la cantidad de estos artículos sea tan grande y abulte tanto que no pueda recibirlos el buque apresador sin grande inconveniente; pero en este y en todos los demas casos de justa detencion, el buque de tenido se enviará al puerto mas cercano conveniente y seguro para ser juzgado con arreglo á las leyes.

ART. 21. Como sucede muy frecuentemente que los buques salen para un puerto ó plaza perteneciente al enemigo sin saber que se halla sitiado, bloqueado ó atacado, se conviene en que á ningun buque que se halle en estas circunstancias se le permitirá entrar en el; pero no será detenido, ni será confiscada parte alguna de su cargamento, sino hubiere en el alguno de los efectos de contrabando: á menos que despues de ser prevenido del sitio ó bloqueo por el oficial comandante de las fuerzas bloqueadoras emprendiese de nuevo entrar en dicho puerto; pero se permitirá ir á cualquiera otro puerto ó lugar que crea conveniente. Ni á buque alguno de las partes contratantes que hubiere entrado en tal puerto antes de ser bloqueado, sitiado ó atacado por alguna de ellas, se le impedirá salir del puerto con su cargamento, y si se hallare en el despues de la rendicion, ni el buque ni el cargamento serán confiscados sino debultos á sus dueños.

ART. 22. Para impedir toda clase de desorden en la visita y ecsamen de los buques y cargamentos de ambas partes contratantes en alta mar, convienen mutuamente en que siempre que un buque de guerra nacional, ó armado en corso se encontrare con un buque neutral de la otra parte contratante, el primero se mantendrá fuera del tiro de cañon, y enviará su vote con solo dos ó tres hombres para verificar el referido

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examination of the papers concerning the ownership and cargo of the vessel, without causing the least extortion, violence, or ill treatment, for which the commanders of the said armed vessels shall be responsible with their persons and property; and for this purpose the commanders of said private armed vessels shall, before receiving their commissions give sufficient security to answer for all the damages they may commit. And it is expressly agreed, that the neutral party shall in no case, be required to go on board the examining vessel for the purpose of exhibiting his papers, or for any other purpose whatsoever.

In case of war, sea letters to be furnished, expressing name, property, &c.

ART. 23. To avoid all kinds of vexation and abuse in the examination of papers relating to the ownership of vessels belonging to the citizens of the two contracting parties, they have agreed, and do agree, that in case one of them should be engaged in war, the vessels belonging to the citizens of the other must be furnished with sea letters or passports, expressing the name, property, and bulk of the vessel, and also the name and place of habitation of the master or commander of said vessel, in order that it may thereby appear that the said vessel really and truly belongs to the citizens of one of the contracting parties; they have likewise agreed that such vessels being laden, besides the said sea-letters or passports, shall also be provided with certificates, containing the several particulars of the cargo, and the place whence the vessel sailed, so that it may be known whether any forbidden or contraband goods be on board the same; which certificate shall be made out by the officers of the place whence the vessel sailed, in the accustomed form: without which requisites, the said vessel may be detained to be adjudged by the competent tribunal, and may be declared legal prize, unless the said defect shall be satisfied or supplied by testimony entirely equivalent to the satisfaction of the competent tribunal.

Rules for the examination of vessels, to apply only to vessels without convoy.

ART. 24. It is further agreed, that the stipulations above expressed, relative to visiting and examination of vessels, shall apply only to those which sail without convoy; and when said vessels are under convoy, the verbal declaration of the commander of the convoy, or his word of honor, that the vessels under his protection belong to the nation whose flag he carries, and when they are bound to an enemy's port, that they have no contraband goods on board, shall be sufficient.

ART. 25. It is further agreed, that in all cases the established courts for prize causes, in the country to which the

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examen de los papeles relativos al dueño y cargamento del buque, sin causar la menor violencia, vejacion ó maltrato: para lo que los comandantes de los espresados buques armados, serán responsables con sus personas y propiedades, á cuyo fin los comandantes de dichos buques armados en corso por cuenta de particulares, darán antes de recibir sus patentes, fianzas suficientes para responder de los daños que puedan causar. Y se estipula espresamente que á buque neutral en ningun caso se le obligará ir á bordo del que registra á manifestar sus papeles, ni algun otra objeto sea el que fuere.

ART. 23. Para evitar toda vejacion y abuso en el examen de los papeles relativamente á los dueños de los buques que pertenescan á ciudadanos de las dos partes contratantes, han convenido y convienen que en caso de hallarse una de ellas en guerra, los buques y navios que pertenescan á ciudadanos de la otra, deberán ser provistos con patentes de mar ó pasaportes, que espresen el nombre, propiedad y dimensiones del buque, asi como el nombre del lugar en que habite el capitán ó comandante del buque para que aparesca real y verdaderamente que pertenece á ciudadanos de una de las partes contratantes; y han convenido igualmente en que los referidos buques si conduj-sen cargamento ademas de las patentes de mar ó pasaportes, seran provistos de certificaciones con espresion de cada uno de los artículos que comprende el cargamento y el lugar de su procedencia, para saber si á su bordo se hallan efectos de contrabando; cuya certificacion se dará por les autoridades del lugar de donde salió el buque en la forma acostumbrada: sin cuyo requisito el referido buque podrá ser detenido para ser juzgado por tribunal competente, y podrá ser declarado buena presa, á menos que esta falta se satisfaga ó supla con testimonio equivalente á satisfaccion del tribunal competente.

ART. 24. Convienen ademas en que las estipulaciones arriba espresadas relativamente al examen y visitas de buques tendrán lugar solamente respecto de aquellos que navegan sin convoy y que cuando los dichos buques estuvieren bajo convoy será bastante la declaracion verbal del comandante del convoy bajo su palabra de honor de que los buques que están bajo su proteccion pertenecen á la nacion del pavellon que enarbola, y cuando van con destino á puerto enemigo, de que no llevan contrabando á bordo.

ART. 25. Se convienen ademas que en todos los casos los tribunales establecidos para juzgar presas en el pais adonde

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Established
prize courts
only to take
cognizance of
prize causes.

In case of war,
six month's notice,
to merchants on the
coast, and
twelve for those
in the interior.

Other trades
may remain
with their pro-
perty unmo-
lested.

Public minis-
ters granted the
same immuni-
ties, &c. as the
most favored
nations.

prizes may be conducted, shall alone take cognizance of them. And whenever such tribunal of either party shall pronounce judgment against any vessel, or goods, or property claimed by the citizens of the other party, the sentence or decree shall mention the reason or motives on which the same shall have been founded; and an authenticated copy of the sentence or decree, in conformity with the laws and usages of the country, and of all the proceedings of the case, shall, if demanded, be delivered to the commander or agent of said vessel, without any delay, he paying the legal fees for the same.

ART. 26. For the greater security of the intercourse between the citizens of the United States of America and of the United Mexican States, it is agreed now for then, that if there should be at any time hereafter an interruption of the friendly relations which now exist, or a war unhappily break out between the two contracting parties, there shall be allowed the term of six months to the merchants residing on the coast, and one year to those residing in the interior of the States and Territories of each other respectively, to arrange their business, dispose of their effects, or transport them wheresoever they may please, giving them a safe conduct to protect them to the port they may designate. Those citizens who may be established in the states and territories aforesaid exercising any other occupation or trade, shall be permitted to remain in the uninterrupted enjoyment of their liberty and property, so long as they conduct themselves peaceably, and do not commit any offence against the laws; and their goods and effects, of whatever class and condition they may be, shall not be subject to any embargo or sequestration whatever, nor to any charge nor tax other than may be established upon similar goods and effects belonging to the citizens of the State in which they reside respectively; nor shall the debts between individuals, nor moneys in the public funds, or in public or private banks, nor shares in companies, be confiscated, embargoed, or detained.

ART. 27. Both the contracting parties being desirous of avoiding all inequality in relation to their public communications and official intercourse, have agreed and do agree to grant to the envoys, ministers, and other public agents, the same favors, immunities, and exemptions which those of the most favored nations do or may enjoy; it being understood that whatever favors, immunities, or privileges the United States of America or the United Mexican States may find proper to give to the ministers and public agents of any other

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estas sean conducidas tendrán ellos solos el conocimiento de estas causas y cuando estos tribunales de alguna de las partes pronunciasen sentencia contra algun buque, efectos ó propiedad que sea reclamada por ciudadanos de la otra en la sentencia se hará mencion de las razones ó motivos en que la haya fundado y se dará si la pidiere, una copia autentica de ella en conformidad con los usos y leyes del pais y de todos los procederes del caso al comandante ó agente del buque interesado sin demora alguna, pagando este las costas establecidas por la ley.

ART. 26. Para mayor seguridad en la comunicacion entre los ciudadanos de los Estados Unidos de America y los de Mexico, se conviene desde ahora para entonces que si acaeciese en lo sucesivo alguna interrupcion en las relaciones amistosas que hoy ecsisten ó si desgraciadamente hubiere un rompimiento hostil entre ambas partes contratantes se les concederá el permiso de seis meses á los comerciantes que residan en las costas, y un año á los que esten en el interior de cada uno de los estados y territorios respectivos, para arreglar sus negocios, disponer de sus bienes ó transportalos adonde gusten, dandoles un salvo conducto que los proteja hasta el puerto que ellos designen: á los ciudadanos que se hallaren establecidos en los referidos estados y territorios ocupados en cualquier otro trafico ó ejercicio se les permitirá permanecer sin interrupcion en el goze de su libertad y propiedades mientras se comporten pacificamente y no cometan ofensa alguna contra las leyes, y sus bienes y efectos de cualquiera clase y condicion que sean no estarán sugetos á embargo ó secuestro alguno, ni á otro impuesto ni contribucion que los establecidos sobre efectos y bienes semejantes pertenecientes á los estados en que respectivamente residan; ni las deudas particulares, ni las cantidades en los fondos públicos, ó en los bancos públicos ó particulares, ni las acciones de las compañías podrán ser confiscadas, embargadas ni detenidas.

ART. 27. Ambas partes contratantes deseando evitar toda desigualdad relativa á las comunicaciones públicas y oficiales, se han convenido y convienen en conceder á los enviados, ministros y otros agentes públicos, los mismos privilegios ecsenciones é inmunidades que hoy goza y en lo sucesivo pueda gozar la nacion mas favorecida: debiendo entenderse que cualquier favor, inmunidad ó privilegio que los Estados Unidos de America ó los de Mexico tengan por conveniente conceder á los ministros ó agentes públicos de cualquiera otra

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Consuls to exhibit their patent; and—

admitted in all ports open to foreign commerce.

Consuls and their officers exempt from all local taxes.

Consuls may call in the aid of the authorities to arrest deserters.

power, shall by the same act be extended to those of each of the contracting parties.

ART. 28. In order that the consuls and vice-consuls of the two contracting parties may enjoy the rights, prerogatives, and immunities which belong to them by their character, they shall, before entering upon the exercise of their functions, exhibit their commission or patent in due form to the Government to which they are accredited; and having obtained their *exequatur*, they shall be held and considered as such by all the authorities, magistrates, and inhabitants of the consular district in which they reside. It is agreed likewise to receive and admit consuls and vice-consuls in all the ports and places open to foreign commerce, who shall enjoy therein all the rights, prerogatives, and immunities of the consuls and vice-consuls of the most favored nation; each of the contracting parties remaining at liberty to except those ports and places in which the admission and residence of such consuls and vice-consuls may not seem expedient.

ART. 29. It is likewise agreed that the consuls, vice-consuls, their secretaries, officers and persons attached to the service of consuls, they not being citizens of the country in which the consul resides, shall be exempt from all compulsory public service, and also from all kind of taxes, imposts, and contributions levied specially on them, except those which they shall be obliged to pay on account of commerce or their property, to which the citizens and inhabitants, native and foreign, of the country in which they reside, are subject; being in every thing besides subject to the laws of their respective states. The archives and papers of the consulates shall be respected inviolably, and under no pretext whatever shall any magistrate seize, or in any way interfere with them.

ART. 30. The said consuls shall have power to require the assistance of the authorities of the country, for the arrest, detention, and custody of deserters from the public and private vessels of their country; and for that purpose, they shall address themselves to the courts, judges, and officers competent, and shall demand the said deserters in writing, proving, by an exhibition of the register of the vessel, or ship's roll, or other public documents, that the man or men demanded were part of said crews; and on this demand so proved, (saving always where the contrary is proved,) the delivery shall not be refused. Such deserters, when arrested, shall be placed at the disposal of the said consuls, and may be put in the public prisons

potencia, será ipso-facto estensivo á cada una de las respectivas partes contratantes.

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ART. 28. Para que los consules y vice-consules de las dos partes contratantes puedan gozar de los derechos, prerogativas é inmunidades que por su caracter les corresponden, presentarán al Gobierno cerca del cual estén destinados su patente ó despacho en debida forma antes de entrar en ejercicio de sus funciones; y habiendo obtenido su execuatur, serán tenidos y considerados como tales por todas las autoridades, magistrados y habitantes del distrito consular donde residan. Se convienen tambien en recibir y admitir consules y vice-consules en todos los puertos y lugares abiertos al comercio estranero, quienes gozorán en ellos todos los derechos, prerogativas é inmunidades de los consules y vice-consules de la nacion mas favorecida, quedando no abstante en libertad cada parte contratante para esceptuar aquellos puertos y lugares en que la admision y residencia de semejantes consules y vice-consules no parezca conveniente.

ART. 29. Ygualmente se conviene que los consules, sus secretarios, los oficiales y personas agregadas al servicio de los consules, no siendo estos ciudadanos del pais en que el consul resida, estarán esentos del servicio público compulsivo y tambien de toda clase de impuestos y contribuciones señaladas especialmente á ellos, esceptuando las que respecto de su comercio ó propiedad estarán obligados á satisfacer del mismo modo que los ciudadanos y habitantes naturales y estrangeros del pais en que residan pagaren; estando en todo lo demas sugetos á las leyes de los Estados respectivos. Los archivos y papeles oficiales de los consules serán respectados inviolablemente y por ningun pretesto sea el que fuere, podrán los magistrados embargarlos ni de ningun modo tomar conocimiento de ellos.

ART. 30. Los dichos consules tendrán poder de requerir el ausilio de las autoridades locales para la prision, detencion y custodia de los desertores de buques nacionales y particulares de su pais y para este objeto se dirigirá á los tribunales, jueces y oficiales competentes; y pedirán los dichos desertores por escrito, probando por una presentacion de los registros de los buques, roll del equipage, ú otros documentos públicos, que aquellos hombres eran parte de las dichas tripulaciones, y esta demanda asi provada (menos no obstante cuando se probare lo contrario) no se recusará la entrega. Semejantes desertores leugo que sean arrestados, se pondrán á disposicion de los dichos consules, y pueden ser

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at the request and expense of those who reclaim them, to be sent to the vessels to which they belonged, or to others of the same nation. But, if they be not sent back within two months, to be counted from the day of their arrest, they shall be set at liberty, and shall not be again arrested for the same cause.

Provision for forming a consular convention.

ART. 31. For the purpose of more effectually protecting their commerce and navigation, the two contracting parties do hereby agree, as soon hereafter as circumstances will permit, to form a consular convention, which shall declare specially the powers and immunities of the consuls and vice-consuls of the respective parties.

Interior commerce to be regulated by mutual agreement—

ART. 32. For the purpose of regulating the interior commerce between the frontier territories of both Republics, it is agreed that the Executive of each shall have power, by mutual agreement, of determining on the route and establishing the roads by which such commerce shall be conducted; and in all cases where the caravans employed in such commerce may require convoy and protection by military escort, the Supreme Executive of each nation, shall, by mutual agreement, in like manner, fix on the period of departure for such caravans, and the point at which the military escort of the nations shall be exchanged. And it is further agreed, that, until the regulations for governing this interior commerce between the two nations shall be established, that the commercial intercourse between the State of Missouri of the United States of America, and New Mexico in the United Mexican States, shall be conducted as heretofore, each Government affording the necessary protection to the citizens of the other.

but, in the meantime, to be conducted as heretofore with Missouri.

Indian hostilities on the respective boundaries to be restrained by force

ART. 33. It is likewise agreed that the two contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the lands adjacent to the lines and rivers which form the boundaries of the two countries; and the better to attain this object, both parties bind themselves expressly to restrain, by force, all hostilities and incursions on the part of the Indian nations living within their respective boundaries: so that the United States of America will not suffer their Indians to attack the citizens of the United Mexican States, nor the Indians inhabiting their territory; nor will the United Mexican States permit the Indians residing within their territories to commit hostilities against the citizens of the United States of America, nor against the Indians residing within the limits of the United States, in any manner whatever.

depositados en las prisiones públicas á solicitud y espensas de los que los reclamen para ser enviados á los buques á que correspondan, ó á otros de la misma nacion. Pero sino fueren mandados dentro de dos meses contados desde el dia de su arresto, serán puéstos en libertad, y no volverán á ser presos por la misma causa.

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ART. 31. Con objeto de proteger mas eficazmente su comercio y navegacion las dos partes contrantes convienen, que tan luego como lo permitan las circunstancias formarán un convenio consular que declarará especialmente las facultades y prerogativas de los consules y vice-consules de las partes respectivas.

ART. 32. Con el fin de regularizar el comercio terrestre por las fronteras de ambas Repúblicas queda establecido que se fijarán por los gobiernos de estas por mutuo convenio los caminos por donde este trafico há de ser conducido; y en todos aquellos casos en que las caravanas que se forman para este comercio, necesiten convoy y proteccion de la fuerza militar se fijará tambien del mismo modo por mutuo convenio de ambos gobiernos el tiempo de la partida de tales caravanas y el punto en el cual se han de cambiar las escoltas de tropas de las dos naciones. Se há convenido ademas que entretanto se establecen las reglas que han de regir segun lo dicho en el comercio terrestre entre las dos naciones, las comunicaciones comerciales entre el Estado de Missouri de los Estados Unidos de America, y el territorio de Nuevo Mexico en los Estados Unidos Mexicanos continuará como hasta aqui concediendo cada gobierno la proteccion necesaria á los ciudadanos de la otra parte.

ART. 33. Se há convenido igualmente que las dos partes contratantes procurarán por todos medios posibles, mantener la paz y bueno armonia entre las diversas tribus de Indios que habitan los terrenos adyacentes á las lineas y rios que forman los limites de los dos paises; y para conseguir mejor este fin se obligan espresamente ambas partes á reprimir con la fuerza todo genero de hostilidades é incurciones de parte de las tribus Indias que habitan dentro de sus respectivos limites: de modo que los Estados Unidos de America no permitirán que sus Indios ataquen á los ciudadanos de los Estados Unidos Mexicanos, ni á los Indios habitan su territorio, y los Estados Unidos Mexicanos no permitirán tampoco que sus Indios hostilizen á los ciudadanos de los Estados Unidos de America ó á sus Indios manera alguna.

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Captives to be set free, and returned to their own territories.

And in the event of any person or persons captured by the Indians who inhabit the territory of either of the contracting parties, being or having been carried into the territories of the other, both Governments engage and bind themselves in the most solemn manner to return them to their country as soon as they know of their being within their respective territories, or to deliver them up to the agent or representative of the Government that claims them, giving to each other, reciprocally, timely notice, and the claimant paying the expenses incurred in the transmission and maintenance of such person or persons, who, in the mean time, shall be treated with the utmost hospitality by the local authorities of the place where they may be. Nor shall it be lawful, under any pretext whatever, for the citizens of either of the contracting parties to purchase or hold captive prisoners made by the Indians inhabiting the territories of the other.

Points to be observed, to preserve a good understanding:

ART. 34. The United States of America and the United Mexican States, desiring to make as durable as circumstances will permit, the relations which are to be established between the two parties by virtue of this treaty or general convention of amity, commerce, and navigation, have declared solemnly, and do agree to the following points:

1. Treaty to remain in force eight years; after that period, one year's notice to terminate it:

First, The present treaty shall remain and be of force for eight years from the day of the exchange of the ratifications, and until the end of one year, after either of the contracting parties shall have given notice to the other of its intention to terminate the same; each of the contracting parties reserving to itself the right of giving such notice to the other, at the end of said term of eight years. And it is hereby agreed between them, that, on the expiration of one year after such notice shall have been received, by either of the parties from the other party, this treaty, in all its parts, relating to commerce and navigation, shall altogether cease and determine, and in all those parts which relate to peace and friendship, it shall be permanently and perpetually binding on both the contracting parties.

2. Citizens to be held personally responsible for infringing it:

Secondly, If any one or more of the citizens of either party shall infringe any of the articles of this treaty, such citizens shall be held personally responsible for the same; and the harmony and good correspondence between the two nations shall not be interrupted thereby; each party engaging, in no way, to protect the offender, or sanction such violation.

Y en el caso de que alguna ó algunas personas cojidas por los Indios que habitan los territorios de cada una de las partes contratantes, fuere ó hubiere sido llevada á los territorios de la otra, ambos Gobiernos se comprometen y obligan del modo mas solemne á devolverlas á su pais tan luego como sepan que se hallan en sus respectivos territorios ó entregarlas al agente ó encargado del mismo Gobierno que las reclame, dandose aviso oportuno reciprocamente. y abonandose por el que lo reclama los gastos erogados en la conduccion y manutencion de la tal persona ó personas quienes entretanto se dispensará por los autoridades locales del punto en que se encuentren la mas generosa hospitalidad. Ni será legitimo por ningun pretesto que los ciudadanos de cualquiera de las partes contratantes compren ó retengan prisioneros cautivos hechos por los Indios que habitan el territorio de la otra.

ART. 34 Los Estados Unidos de America y los Estados Unidos Mexicanos, deseosos de hacer tan permanentes como lo permitan las circunstancias las relaciones que van á establecerse entre las dos partes en virtud de este tratado ó convenio general de amistad, comercio y navegacion, han declarado solemnemente, y convienen en los puntos siguientes:

Primero, El presente tratado permanecerá y estará en todo su rigor y fuerza por el termino de ocho años que deberán contarse desde el dia del cambio de las ratificaciones, y terminados estos continuará rigiendo hasta el termino de un año contado desde el dia en que alguna de las dos partes contratantes haya dadó noticia á la otra de su resolucion de poner fin á este convenio. Y cada una de las partes contratantes se reserva asi misma el derecho de dar este aviso á la otra al cabo del referido termino de ocho años. quedando ademas convenido entre ambas que al cabo de un año desques de recibido tal aviso por alguna de las partes contratantes de parte de la otra, este tratado deberá cesar y acabar en todo cuanto tiene relacion con comercio y navegacion, quedando solo permanente y perpetuamente valedero y obligatorio á ambas partes contratantes en todo cuanto toca á las paz y amistad entre ambas

Segundo, Si uno ó mas ciudadanos de alguna de las partes infringiere algun articulo de este tratado, será personalmente responsable de ello; pero no por esto se interrumpirá la armonia y buena correspondencia entre las dos naciones; á cuyo fin ambas partes respectivamente se comprometen á no proteger á el agresar, ni sancionar semejante infraccion.

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3. Before war, a statement of injuries to be presented, and justice demanded.

Thirdly, If (what indeed cannot be expected) any of the articles contained in the present treaty shall be violated or infringed in any manner whatever, it is stipulated that neither of the contracting parties will order or authorize any acts of reprisal, nor declare war against the other, on complaints of injuries or damages, until the said party considering itself offended, shall first have presented to the other a statement of such injuries or damages, verified by competent proofs, and demanded justice and satisfaction, and the same shall have been either refused or unreasonably delayed.

Fourthly. Nothing in this treaty contained, shall however be construed to operate contrary to former and existing public treaties with other Sovereigns or States.

Ratifications to be exchanged within one year.

The present treaty of amity, commerce, and navigation, shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the Vice President of the United Mexican States, with the consent and approbation of the Congress thereof; and the ratifications shall be exchanged in the city of Washington, within the term of one year, to be counted from the date of the signature hereof, or sooner, if possible.

In witness whereof, we, the Plenipotentiaries of the United States of America and of the United Mexican States, have signed and sealed these presents. Done in the city of Mexico, on the fifth day of April, in the year of our Lord one thousand eight hundred and thirty-one, in the fifty-fifth year of the Independence of the United States of America, and in the eleventh of that of the United Mexican States.

A. BUTLER. [L. s.]
LUCAS ALAMAN. [L. s.]
RAFAEL MANGINO. [L. s.]

ADDITIONAL ARTICLE.

Fifth and sixth articles to be suspended for six years.

Whereas, in the present state of the Mexican shipping, it would not be possible for Mexico to receive the full advantage of the reciprocity established in the fifth and sixth articles of the treaty signed this day, it is agreed that for the term of six years, the stipulations contained in the said articles shall be suspended; and in lieu thereof, it is hereby agreed, that, until the expiration of the said term of six years, American vessels entering into the ports of Mexico, and all articles, the produce, growth, or manufacture of the United States of America, imported in such vessels, shall pay no other or higher

Tercero, Si (lo que no es de esperar) alguno de los artículos del presente tratado desgraciadamente fuere violado ó infringido de cualquiera otro modo se estipula que ninguna de las partes contratantes dispondrá ó autorizará ninguna clase de represalia, ni declarará guerra á la otra por queja de injuria ó daño hasta que le misma parte que se considera agraviada no haya presentado ó la otra una relacion de las injurias ó daños competentemente comprobada, y sobre ello hubiese pedido justicia y satisfaccion, y esta hubiere sido negada ó sin razon demorada.

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Cuarto, Nada de lo contenido en este tratado podrá de manera alguna interpretarse ni obrará en contra de los tratados públicos celebrados anteriormente y ecistentes con otros Soberanos y Estados.

El presente tratado de amistad, comercio y navegacion será aprobado y ratificado por el Presidente de los Estados Unidos de America con la anuencia y consentimiento de su Senado, y por el Vice Presidente de los Estados Unidos Mexicanos, previo el consentimiento y aprobacion del Congreso; y las ratificaciones serán cangeadas en la ciudad de Washington en el termino de un año contado desde la fecha en que fueren firmados, ó antes si fuere posible.

En fé de lo cual, los respectivos Plenipotenciaries lo hemos firmado y sellado con nuestros sellos respectivos Fecho en Mexico á los cinco dias de Abril del año del Señor de mil ochocientos treinta y uno, undecimo de la independencia de los Estados Unidos Me-jicanos y quinquagesimo-quinto de la de los Estados Unidos de America

LUCAS ALAMAN. [L. s.]
RAFAEL MANGINO. [L. s.]
A. BUTLER. [L. s.]

ARTICULO ADICIONAL.

Por cuanto en el presente estado de la marina Mejjicana no seria posible que Mexico gozase de las ventajas que deberá producir la reciprocidad establecida por los articulos 5º. y 6º. del tratado firmado en este dia, se estipula que durante el espacio de seis años se suspenderá lo convenido en dichos articulos y en su lugar se estipula que hasta la conclusion del termino mencionado de seis años, los buques Americanos que entren en los puertos de Mexico, y todos los articulos de producto, fruto ó manufactura de los Estados Unidos de America importados en tales buques, no pagarán otros ni

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duties, than are or may hereafter be payable in the said ports by the vessels and the like articles, the growth, produce, or manufacture of the most favored nation; and, reciprocally, it is agreed that Mexican vessels entering into the ports of the United States of America, and all articles, the growth, produce, or manufacture of the United Mexican States, imported in such vessels, shall pay no other or higher duties than are, or may hereafter be, payable in the said ports by the vessels and the like articles, the growth, produce, or manufacture of the most favored nation; and that no higher duties shall be paid, or bounties or drawbacks allowed, on the exportation of any article, the growth, produce, or manufacture of either country, in the vessels of the other, than upon the exportation of the like articles in the vessels of any other foreign country.

The present additional article shall have the same force and value as if it had been inserted, word for word, in the treaty signed this day. It shall be ratified, and the ratification exchanged at the same time.

In witness whereof, we, the respective Plenipotentiaries, have signed and sealed the same.

Done at Mexico, on the fifth day of April, one thousand eight hundred and thirty-one.

A. BUTLER. [L. S.]
LUCAS ALAMAN. [L. S.]
RAFAEL MANGINO. [L. S.]

And whereas the said Treaty has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Washington on the fifth day of April, one thousand eight hundred and thirty-two, by Edward Livingston, Secretary of State of the United States of America, and Jose Montoya, Charge d'Affaires of the United Mexican States, on the part of their respective Governments:

Now, therefore, be it known that I, ANDREW JACKSON, President of the United States of America, have caused the said Treaty 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 witness whereof I have hereunto set my hand, and caused the seal of the United States to be affixed.

[L. S.]

Done at the City of Washington, this fifth day of April, in the year of our Lord one thousand eight hundred and thirty-two, and of the Independence of the United States the fifty-sixth.

ANDREW JACKSON.

By the President:
EDW. LIVINGSTON,
Secretary of State.

mayores derechos, que los que se pagan ó en adelante se pagaren en los referidos puertos, por los buques é iguales artículos de fruto, producto ó manufactura de la nacion mas favorecida, y reciprocamente se estipula que los buques Mejicanos que entren en los puertos de los Estados Unidos de America y todos los artículos de fruto, producto ó manufactura de los Estados Unidos Mexicanos importados en tales buques, no pagarán otros ni mayores derechos que los que se pagan, ó en adelante se pagaren en los mencionados puertos por los buques y semejantes artículos de producto, fruto ó manufactura de la nacion mas favorecida; y que no se pagarán mayores derechos, ni se concederán otras franquicias y descuentos á la esportacion de cualquiera artículo de producto fruto ó manufactura de cada uno de los dos paises en los buques del otro mas que á la esportacion de dichos artículos en buques de cualquiera otro pais extranjero.

El presente artículo adicional tendrá la misma fuerza y valor que si se hubiera insertado palabra por palabra en el tratado de este dia. Sera ratificado y la ratificacion cambiada al mismo tiempo.

En fé de lo cual, los respectivos Plenipotenciarios, lo hemos firmado y sellado con nuestros sellos respectivos.

Hecho en Mexico á cinco de Abril de mil ochocientos treinta y uno.

LUCAS ALAMAN. [L. s.]

RAFAEL MANGINO. [L. s.]

A BUTLER. [L. s.]

1831.
April 5.

1828.
January 12. *Treaty of Limits, between the United States of America,
and the United Mexican States.*

By the President of the United States. A Proclamation.

WHEREAS, a treaty of Limits between the United States of America, and the United Mexican States was concluded and signed by the Plenipotentiaries of the two countries, at Mexico, on the twelfth January, one thousand eight hundred and twenty-eight:

Whereas, also, an additional article thereto was concluded and signed by the Plenipotentiaries of the two countries, at Mexico, on the fifth April, one thousand eight hundred and thirty-one, which treaty and additional article are word for word as follows:

Treaty of 22d
February, 1819,
confirmed.

The limits of the United States of America with the bordering Territories of Mexico having been fixed and designated by a solemn treaty, concluded and signed at Washington, on the twenty-second day of February, in the year of our Lord one thousand eight hundred and nineteen, between the respective Plenipotentiaries of the Government of the United States of America, on the one part, and of that of Spain on the other: And whereas, the said treaty having been sanctioned at a period when Mexico constituted a part of the Spanish Monarchy, it is deemed necessary now to confirm the validity of the aforesaid treaty of limits, regarding it as still in force and binding between the United States of America and the United Mexican States:

With this intention, the President of the United States of America has appointed Joel Roberts Poinsett their Plenipotentiary; and the President of the United Mexican States their Excellencies Sebastian Canacho and José Ygnacio Esteva:

And the said Plenipotentiaries having exchanged their full powers, have agreed upon and concluded, the following articles:

Third and
fourth articles
to be carried
into full effect.

ART. 1. The dividing limits of the respective bordering territories of the United States of America and of the United Mexican States, being the same as were agreed and fixed upon by the above-mentioned treaty of Washington, concluded and signed on the twenty-second day of February, in the year one thousand eight hundred and nineteen, the two high contracting parties will proceed forthwith to carry into full effect the third and fourth articles of said treaty, which are herein recited, as follows:

Boundaries
designated.

ART. 2. The boundary line between the two countries, west of the Mississippi, shall begin on the gulf of Mexico, at the mouth of the river Sabine, in the sea, continuing north along the western bank of that river, to the 32d degree of latitude; thence, by a line due north, to the degree of latitude

1858.
January 12.

*Treaty of Limits, between the United States of America,
and the United Mexican States.*

Habiendose fijado y designado los limites de los Estados Unidos de America con los Territorios limitrofes de Megico por un tratado solemne, concluido y firmado en Washington, á veinte y dos de Febrero, de mil ochocientos diez y nueve, entre los Plenipotenciarios respectivos del Gobierno de los Estados Unidos por una parte, y de España por la otra; por tanto, y en consideracion á que dicho tratado recibio su sancion en una epoca en que Megico formaba una parte de la Monarquia Española, se ha creido necesario al presente, declarar, y confirmar la validez de dicho tratado considerandolo vigente y obligatorio entre los Estados Unidos de Megico y los Estados Unidos de America: En consecuencia han sido nombrados los respectivos Plenipotenciarios, á saber:

El Presidente de los Estados Unidos de Megico á sus Excelencias los Señores Sebastian Camacho, y José Ygnacio Esteva; y el Presidente de los Estados Unidos de America al Señor Joel Roberts Poinsett, su Enviado Extraordinario, y Ministro Plenipotenciario cerca del Gobierno de los Estados Unidos de Megico. Los que despues de haber cambiado sus plenos poderes, y hallados en buena, y debida forma, han convenido y concluido los articulos siguientes:

ART. 1. Siendo los limites divisorios de los Estados Unidos de Megico, y de los Estados Unidos de America en los terrenos colindantes de ambas Republicas los mismos que se acordaron, y fijaron en el dicho tratado de Washington, fecho á veinte y dos de Febrero de mil ochocientos diez y nueve; se procederá inmediatamente á poner en ejecucion entre las dos dichas partes contratantes los articulos tercero y cuarto de dicho tratado, que á continuacion se insertan:

ART. 2. La linea divisoria entre los dos paises, al occidente del Misisipi arrancará del seno Megicano en la embocadura del rio Sabina en el mar, seguirá al norte, por la orilla occidental de este rio hasta el grado 32 de latitud; desde allí por una linea recta al norte hasta al grado de latitud,

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Boundaries
designated.

where it strikes the Rio Roxo of Natchitoches, or Red river; then following the course of the Rio Roxo westward, to the degree of longitude 100 west from London, and 23 from Washington; then, crossing the said Red river, and running thence by a line due north, to the river Arkansas; thence, following the course of the southern bank of the Arkansas, to its source, in latitude 42 north; and thence, by that parallel of latitude, to the South sea: the whole being as laid down in Melish's map of the United States, published at Philadelphia, improved to the first of January, 1818. But, if the source of the Arkansas river shall be found to fall north or south of latitude 42, then the line shall run from the said source due south or north, as the case may be, till it meets the said parallel of latitude 42; and thence, along the said parallel, to the South sea. All the islands in the Sabine, and the said Red and Arkansas rivers, throughout the course thus described, to belong to the United States; but the use of the waters, and the navigation of the Sabine to the sea, and of the said rivers Roxo and Arkansas, throughout the extent of the said boundary on their respective banks, shall be common to the respective inhabitants of both nations.

The two high contracting parties agree to cede and renounce all their rights, claims, and pretensions to the territories described by the said line, that is to say: the United States hereby cede to his Catholic Majesty, and renounce forever, all their rights, claims, and pretensions to the territories lying west and south of the above described line; and, in like manner, his Catholic Majesty cedes to the said United States all his rights, claims, and pretensions to any territories east and north of the said line; and for himself, his heirs, and successors, renounces all claim to the said territories forever.

Commissioner
and surveyor to
be appointed.

ART. 3. To fix this line with more precision, and to place the land-marks which shall designate exactly the limits of both nations, each of the contracting parties shall appoint a commissioner and a surveyor, who shall meet before the termination of one year from the date of the ratification of this treaty, at Natchitoches, on the Red river, and proceed to run and mark the said line, from the mouth of the Sabine to the Red river, and from the Red river to the river Arkansas, and to ascertain the latitude of the source of the said river Arkansas, in conformity to what is agreed upon and stipulated, and the line of latitude of 42, to the South sea. They shall make out plans, and keep journals of their proceedings; and the result agreed upon by them shall be considered as part of this treaty,

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en que entra en el rio Rojo de Natchitoches, *Red river*; y continuará por el curso del rio Rojo al oeste hasta el grado 100 de longitud occidental de Londres, y 23 de Washington, en que cortará este rio y seguirá, por una linea recta al norte, por el mismo grado hasta el rio Arkansas, cuya orilla meridional seguirá hasta su nacimiento en el grado 42 de latitud septentrional, y desde dicho punto se tirará una linea recta por el mismo paralelo de latitud, hasta el mar del Sur: todo segun el mapa de los Estados Unidos, de Melish, publicado en Filadelfia y perfeccionado en 1818. Pero si el nacimiento del rio Arkansas se hallase al norte, ó sur de dicho grado 42 de latitud, seguirá la linea desde el origen de dicho rio recta al Sur, ó norte, segun fuese necesario, hasta que encuentre el espresado grado 42 de latitud, y desde alli por el mismo paralelo hasta el mar del Sur. Pertencerán á los Estados Unidos todas las islas de rios Sabina, Rojo de Natchitoches, y Arkansas, en la estension de todo el curso descrito; pero el uso de las aguas, y la navegacion del Sabina, hasta el mar, y de los espresados rios Rojo y Arkansas, en toda la estension de sus mencionados limites en sus respectivas orillas será comun á los habitantes de las dos naciones.

Las dos altas partes contratantes convienen en ceder, y renunciar todos sus derechos, reclamaciones y pretensiones sobre los Territorios que se describen en esta linea, á saber: los Estados Unidos de America ceden á S. M. C. y renuncian para siempre todos sus derechos, reclamaciones, y pretensiones, á cualesquiera Territorios situados al oeste, y al sur de dicha linea; y S. M. C. en igual forma, renuncia, y cede para siempre por sí y á nombre de sus herederos y sucesores, todos los derechos que tiene sobre los Territorios al este y al norte de la misma linea arriba descrita.

ART. 3. Para fijar esta linea con mas precision, y establecer los mojones que señalen con ecsactitud los limites de ambas naciones, nombrará cada una de ellas un comisario y un geometra, que se juntarán antes del termino de un año contado desde la fecha de la ratificacion de este tratado, en Natchitoches, en las orillas del rio Rojo, y procederán á señalar, y demarcar dicha linea, desde la embocadura del Sabina hasta el rio Rojo, y de este hasta el rio Arkansas, y averiguar con certidumbre el origen del espresado rio Arkansas, y fijar segun queda estipulado, y convenido en este tratado, la linea que debe seguir desde el grado 42 de latitud hasta el mar Pacifico. Llevaran diarios, y levantaran planos de sus operaciones, y el resultado convenido por ellos se tendrá por

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and shall have the same force as if it were inserted therein. The two Governments will amicably agree respecting the necessary articles to be furnished to those persons, and also as to their respective escorts, should such be deemed necessary.

ART. 4. The present treaty shall be ratified, and the ratifications shall be exchanged at Washington, within the term of four months, or sooner if possible.

In witness whereof, we, the respective Plenipotentiaries have signed the same, and have hereunto affixed our respective seals. Done at Mexico, this twelfth day of January, in the year of our Lord one thousand eight hundred and twenty-eight, in the fifty-second year of the Independence of the United States of America, and in the eighth of that of the United Mexican States.

J. R. POINSETT. [L. s.]

S. CAMACHO. [L. s.]

J. Y. ESTEVAN. [L. s.]

Additional Article to the Treaty of Limits concluded between the United States of America and the United Mexican States, on the 12th day of January, 1828.

The time having elapsed which was stipulated for the exchange of ratifications of the Treaty of Limits between the United Mexican States and the United States of America, signed in Mexico on the 12th of January, 1828; and both Republics being desirous that it should be carried into full and complete effect, with all due solemnity, the President of the United States of America has fully empowered, on his part, Anthony Butler, a citizen thereof, and Chargé d'Affaires of the said States in Mexico; and the Vice-President of the United Mexican States, acting as President thereof, has, in like manner, fully empowered on his part their Excellencies Lucas Alamán, Secretary of State and Foreign Relations, and Rafael Mangino, Secretary of the Treasury, who after having exchanged their mutual powers, found to be ample and in form, have agreed, and do hereby agree, on the following article:

The ratifications of the Treaty of Limits, concluded on the 12th January, 1828, shall be exchanged at the City of Washington, within the term of one year, counting from the date of this agreement, and sooner should it be possible.

The present Additional Article shall have the same force and effect as if it had been inserted word for word in the afore-

parte de este tratado, y tendra la misma fuerza que se estuviese inserto en el: debiendo convenir amistosamente los dos Gobiernos, en el arreglo de cuanto necesiten estos individuos y en la escolta respectiva que deban llevar siempre que se crea necesario.

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ART. 4. El presente tratado sera ratificado, y las ratificaciones seran cambiadas en Washington en el termino de cuatro meses, ó antes si posible fuere.

En fé de lo cual, los respectivos Plenipotenciarios han firmado el presente, sellandolo con sus sellos respectivos.

Fecho en Megico, á los doce dias del mes de Enero, del año del Señor mil ochocientos veinte y ocho, octavo de la Independencia de los Estados Unidos de Megico, y 52 de la de los Estados Unidos de America.

S. CAMACHO. [L. s.]

J. Y. ESTEVA. [L. s.]

J. R. POINSETT. [L. s.]

Articulo adicional al Tratado de Limites celebrado entre los Estados Unidos Mejicanos y los Estados Unidos de America, en 12 de Enero de 1828.

Habiendose pasado el tiempo señalado para el cambio de las ratificaciones del Tratado de Limites entre los Estados Unidos Mejicanos y los Estados Unidos de America, firmado en Mejico el dia 12 de Enero de 1828, deseosas ambas Republicas de que el referido tratado tenga su mas puntual cumplimiento llenandose todas las formalidades necesarias, y habiendo revestido con sus plenos poderes el Vice Presidente en ejercicio del poder ejecutivo de los Estados Unidos Mejicanos á los Ecselentisimos Señores Don Lucas Alaman, Secretario de Estados y del Despacho de Relaciones Interiores y Exteriores, y Don Rafael Mangino, Secretario de Estado y del Despacho de Hacienda; y el Presidente de los Estados Unidos de America á Antonio Butler, ciudadano de los mismos Estados y Encargado de Negocios de ellos en Mejico, despues de cambiar sus plenos poderes que se encontraron en buena y debida forma, han convenido y convienen en el articulo siguiente:

Las ratificaciones del Tratado de Limites celebrado el 12 de Enero de 1828, se cambiarán en la ciudad de Washington dentro del termino de un año, contado desde la fecha de este convenio, ó antes si fuere posible.

El presente articulo adicional tendrá la misma fuerza y valor que se hubiese insertado palabra por palabra, en el

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said treaty of the 12th of January, of 1828, and shall be approved and ratified in the manner prescribed by the Constitutions of the respective States.

In faith of which, the said Plenipotentiaries have hereunto set their hands and affixed their respective seals. Done in Mexico, the fifth of April, of the year one thousand eight hundred and thirty-one, the fifty-fifth of the Independence of the United States of America, and the eleventh of that of the United Mexican States.

A. BUTLER. [L.S.]
LUCAS ALAMAN. [L.S.]
RAFAEL MANGINO. [L.S.]

tratado mencionado de 12 de Enero de 1828, y será aprobado y ratificado en los terminos que establecen las Constituciones de los respectivos Estados.

En fé de lo cual, los referidos Plenipotenciarios lo hemos firmado y sellado con nuestros sellos respectivos. Fecho en Mejico, á los cinco dias del mes de Abril de mil ochocientos treinta y uno, undecimo de la Independencia de los Estados Unidos Mejicanos, y quincuagesimo quinto de la de los Estados Unidos de America.

LUCAS ALAMAN. [L.S.]
RAFAEL MANGINO. [L.S.]
A. BUTLER. [L.S.]

AND WHEREAS the said Treaty has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Washington, on the fifth day of April, one thousand eight hundred and thirty-two, by Edward Livingston, Secretary of State of the United States of America, and Jose Montoya, Charge d'Affaires of the United Mexican States, on the part of their respective Governments:

NOW THEREFORE BE IT KNOWN, THAT I, ANDREW JACKSON, President of the United States of America, have caused the said Treaty 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 WITNESS 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 fifth day of April, in the year of our Lord one thousand eight hundred and thirty-two, and of the Independence of the United States the fifty-sixth.

ANDREW JACKSON.

By the President:

EDW. LIVINGSTON, *Secretary of State.*

LAWS, &c.

IN RELATION TO

PUBLIC MINISTERS, CONSULS, CONVENTIONS, &c.

COMPENSATION TO PUBLIC MINISTERS, AND CONSULS, &c.

“No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them, shall, without the consent of the congress, *accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.*”

FEDERAL CONSTITUTION, Art. 1, Sec. 9.

No. 1.—*AN ACT fixing the compensation of public ministers, and of consuls residing on the coast of Barbary, and for other purposes.*

U. S. Laws, vol. 4, page 309.

SEC. 1. *Be it enacted, &c.* That the president of the United States shall not allow to any minister plenipotentiary a greater sum than at the rate of nine thousand dollars per annum, as a compensation for all his personal services and expenses; nor to any chargé des affaires, a greater sum than at the rate of four thousand five hundred dollars per annum, as a compensation for all his personal services and expenses; nor to the secretary of any legation or embassy to any foreign country, or secretary of any minister plenipotentiary, a greater sum than at the rate of two thousand dollars per annum, as a compensation for all his personal services and expenses; nor to any consul who shall be appointed to reside at Algiers, a greater sum than at the rate of four thousand dollars per annum, as a compensation for all his personal services and expenses; nor to any other consul who shall be appointed to reside at any other of the states on the coast of Barbary, a greater sum than at the rate of two thousand dollars per annum, as a compensation for all his personal services and expenses; nor shall there be appointed more than one consul for any one of the said states: *Provided,* It shall be lawful for the president of the United States to allow to a minister plenipotentiary, or chargé des affaires, on going from the United States to any foreign country, an outfit, which shall in no case exceed one years full salary of such minister or chargé des affaires; but no consul shall be allowed an outfit in any case whatever, any usage or custom to the contrary notwithstanding.

SEC. 2. *And be it further enacted,* That to entitle any chargé des affaires, or secretary of any legation or embassy to any foreign country, or secretary of any minister plenipotentiary, to the compensation hereinbefore provided, they shall, respectively, be appointed by the president of the United States, by and with the advice and consent of the senate; but in the recess of the senate, the president is hereby authorized to make such appointments, which shall be submitted to the senate at the next session thereafter, for their advice and consent; and no compensation shall be allowed to any chargé des affaires, or any of the secretaries hereinbefore described, who shall not be appointed as aforesaid: *Provided,* That nothing herein contained shall be construed to authorize any appointment of a secretary to any chargé des affaires, or to any consul residing on the Barbary coast, or to sanction any claim against the United States for expense incident to the same, any usage or custom to the contrary notwithstanding.

SEC. 3. *And be it further enacted,* That where any sum or sums of money shall be drawn from the treasury, under any law making appropriation for the contingent expenses or intercourse between the United States and foreign nations, the president shall be, and he hereby is authorized to cause the same to be duly settled, annually, with the accounting officers of the treasury, in the manner following, that is to say: By causing the same to be accounted for, especially, in all instances wherein the expenditure thereof may, in his judgment, be made public, and by making a certificate of the amount of such expenditures as he may think it advisable not to specify; and such certificate shall be deemed a sufficient voucher for the sum or sums therein expressed to have been expended.

SEC. 4. *And be it further enacted,* That it shall not be lawful for the consuls of the United States, residing on the Barbary coasts, or either of them, to expend, or to disburse, or pay, or cause to be paid, for any purpose, or on any pretence whatever, not authorized by law, to any one of the Barbary powers, or to the officers or subjects thereof, a greater sum than three thousand dollars in any one year, with intent to charge the United States with the same, without first obtaining a special approbation, in writing, from the president of the United States, for that purpose. And every such consul who shall, after notice of this act, expend or disburse, or pay, or cause to be paid, for any purpose, or on any pretence whatever, not authorized by law, to any one of the Barbary powers, or to the officers or subjects thereof, a greater sum than three thousand dollars in any one year, or shall be aiding or assisting therein, without first obtaining the approbation of the president as aforesaid, shall forfeit and pay to the treasury of the United States a sum equal to one-half his yearly compensation; and shall, moreover, stand charged with, and be accountable for, all moneys so disbursed or paid, contrary to the provisions of this act.

SEC. 5. *And be it further enacted,* That, from and after the first day of November next, no consul of the United States residing on the Barbary coast shall own, in whole or in any part, any ship or vessel, to be concerned, directly or indirectly, in the exportation from, or importation to, any of the states on the coast of Barbary, of any goods, wares, or merchandise, on penalty that every consul so offending, and being thereof convicted, shall, for every offence, forfeit a sum not exceeding one thousand dollars.

SEC. 6. *And be it further enacted,* That it shall be the duty of the consuls residing on the Barbary coast to transmit to the secretary of the treasury, annually, an account of all moneys received, and of all disbursements or expenditures made, by them, respectively, for or on account of the United States, and the particular purpose to which the moneys have been applied, and the vouchers to support the same; and the secretary of the treasury shall transmit to congress, within two months after the commencement of the first session thereof, in every year, a statement of all the moneys disbursed from the treasury of the United States, for expenses of intercourse with the Barbary powers during the preceding year, therein noting as far as can be ascertained at the treasury, the sums received by the respective agents or consuls, and the purposes to which the same have been applied.

SEC. 7. *And be it further enacted,* That the act, entitled "An act in addition to the law of the United States concerning consuls and vice consuls," approved July sixth, one thousand seven hundred and ninety-seven, and the act, entitled "An act to ascertain the compensation of public ministers," approved May the tenth, one thousand eight hundred, be, and the same are hereby, repealed.

[Approved May 1, 1810.]

PRIVILEGES OF FOREIGN MINISTERS.

No. 2.—*Extract from the act of April 30, 1790.*

U. S. Laws, vol: 2, page 97.

SEC. 25. *Be it enacted,* That if any writ or process shall, at any time hereafter, be sued forth or prosecuted by any person or persons, in any of the courts of the United States, or in any of the courts of a particular state, or by any judge or justice therein, respectively, whereby the person of any ambassador or other public minister of any foreign prince or state, authorized and received as such by the president of the United States, or any domestic or domestic servant of any such ambassador or other public minister, may be arrested or imprisoned, or his or their goods or chattels be distrained, seized, or attached, such writ or process shall be deemed and adjudged to be utterly null and void, to all intents, construction, and purposes, whatsoever.

SEC. 26. *And be it enacted,* That in case any person or persons shall sue forth or prosecute any such writ or process, such person or persons, and all attorneys or solicitors prosecuting or soliciting in such case, and all offi-

cers executing any such writ or process, being thereof convicted, shall be deemed violators of the laws of nations and disturbers of the public repose, and imprisoned not exceeding three years, and fined at the discretion of the court: *Provided nevertheless*, That no citizen or inhabitant of the United States, who shall have contracted debts prior to his entering into the service of any ambassador or other public minister, which debts shall be still due and unpaid, shall have, take, or receive, any benefit of this act; nor shall any person be proceeded against by virtue of this act, for having arrested or sued any other domestic servant of any ambassador or other public minister, unless the name of such servant be first registered in the office of the secretary of state, and by such secretary transmitted to the marshal of the district in which congress shall reside, who shall, upon receipt thereof, affix the same in some public place in his office, whereto all persons may resort and take copies without fee or reward.

SEC. 27. *And be it enacted*, That if any person shall violate any safe conduct or passport duly obtained, and issued under the authority of the United States, or shall assault, strike, wound, imprison, or in any other manner infract the law of nations, by offering violence to the person of an ambassador or other public minister, such person so offending, on conviction, shall be imprisoned not exceeding three years, and fined at the discretion of the court. [Approved April 30, 1790.]

CONSULS AND VICE CONSULS.

No. 3.—*An act concerning Consuls and Vice Consuls.*

U. S. Laws, vol. 2, page 273.

For carrying into full effect the convention between the king of the French and the United States of America, entered into for the purpose of defining and establishing the functions and privileges of their respective consuls and vice consuls.

SEC. 1.* *Be it enacted, &c.* That where, in the seventh article of the said convention, it is agreed, that when there shall be no consul or vice consul of the king of the French, to attend to the saving of the wreck of any French vessels stranded on the coasts of the United States, or that the residence of the said consul or vice consul (he not being at the place of the wreck) shall be more distant from the said place than that of the competent judge of the country, the latter shall immediately proceed to perform the office therein prescribed, the district judge of the United States of the district in which the wreck may happen, shall proceed therein, according to the tenor of the said article. And in such cases it shall be the duty of the officers of the customs within whose districts such wrecks shall happen, to give notice thereof, as soon as may be, to the said judge, and to aid and assist him to perform the duties hereby assigned to him. The district judges of the

*See convention, No. 4, p. 70, vol. 1. Annulled by act of July 7, 1798. This section obsolete.

United States shall also, within their respective districts, be the competent judges, for the purposes expressed in the ninth article of the said convention, and it shall be incumbent on them to give aid to the consuls and vice consuls of the king of the French, in arresting and securing deserters from vessels of the French nation, according to the tenor of the said article.

And where, by any article of the said convention, the consuls and vice consuls of the king of the French are entitled to the aid of the competent executive officers of the country, in the execution of any precept, the marshals of the United States, and their deputies shall, within their respective districts, be the competent officers, and shall give their aid according to the tenor of the stipulations.

And whenever commitments to the goals of the country shall become necessary, in pursuance of any stipulation of the said convention, they shall be to such goals, within the respective districts, as other commitments under the authority of the United States, are, by law, made.

And for the direction of the consuls and vice-consuls of the United States in certain cases:

SEC. 2. *Be it enacted, &c.* That they shall have right, in the ports or places to which they are, or may be, severally appointed, of receiving the protests or declarations, which such captains, masters, crews, passengers and merchants, as are citizens of the United States, may respectively choose to make there; and also such as any foreigner may choose to make before them, relative to the personal interest of any citizens of the United States; and the copies of the said acts, duly authenticated by the said Consuls or vice consuls, under the seal of their consulates, respectively, shall receive faith in law, equally as their originals would, in all courts in the United States. It shall be their duty, where the laws of the country permit, to take possession of the personal estate left by any citizen of the United States, other than seamen belonging to any ship or vessel, who shall die within their consulates, leaving there no legal representative, partner in trade, or trustee by him appointed, to take care of his effects; they shall inventory the same, with the assistance of two merchants of the United States, or, for want of them, of any others, at their choice; shall collect the debts due to the deceased in the country where he died, and pay the debts due from his estate which he shall have there contracted; shall sell at auction, after reasonable public notice such part of the estate as shall be of a perishable nature, and such further part, if any, as shall be necessary for the payment of his debts, and, at the expiration of one year from his decease, the residue, and the balance of the estate they shall transmit to the Treasury of the United States, to be holden in trust for the legal claimants. But if, at any time before such transmission, the legal representative of the deceased shall appear and demand his effects in their hands, they shall deliver them up, being paid their fees, and shall cease their proceedings.

For the information of the representative of the deceased, it shall be the duty of the consul or vice consul, authorized to proceed as aforesaid in the settlement of his estate, immediately to notify his death in one of the gazettes published in the consulate, and also to the secretary of state, that the same may be notified in the state to which the deceased shall belong; and he shall also, as soon as may be, transmit to the secretary of state an inventory of the effects of the deceased, taken as before directed.

SEC. 3. *And be it further enacted*, That the said consuls and vice consuls, in cases where ships or vessels of the United States shall be stranded on the coasts of their consulates, respectively, shall, as far as the laws of the country will permit, take proper measures, as well for the purpose of saving the said ships or vessels, their cargoes and appurtenances, as for storing and securing the effects and merchandise saved, and for taking an inventory or inventories thereof; and the merchandise and effects saved, with the inventory or inventories thereof, taken as aforesaid, shall after deducting therefrom the expense, be delivered to the owner or owners. *Provided*, That no consul or vice consul shall have authority to take possession of any such goods, wares, merchandise, or other property, when the master, owner, or consignee thereof, is present, or capable of taking possession of the same.

SEC. 4. *And be it further enacted*, That it shall and may be lawful for every consul and vice consul of the United States, to take and receive the following fees of office, for the services which he shall have performed.

For authenticating, under the consular seal, every protest, declaration, deposition, or other act, which such captains, masters, mariners, seamen, passengers, merchants, or others, as are citizens of the United States, may respectively choose to make, the sum of two dollars.

For the taking into possession, inventorying, selling, and finally settling and paying, or transmitting, as aforesaid, the balance due on the personal estate left by any citizen of the United States who shall die within the limits of his consulate, five per centum on the gross amount of such estate.

For taking into possession, and otherwise proceeding on, any such estate which shall be delivered over to the legal representative before a final settlement of the same, as is hereinbefore directed, two and an half per centum on such part delivered over as shall not be in money, and five per centum on the gross amount of the residue.

And it shall be the duty of the consuls and vice consuls of the United States, to give receipts for all fees which they shall receive by virtue of this act, expressing the particular services for which they are paid.

SEC. 5. *And be it further enacted*, That in case it be found necessary for the interest of the United States, that a consul or consuls be appointed to reside on the coast of Barbary, the president be authorized to allow an annual salary, not exceeding two thousand dollars, to each person so to be appointed: *Provided*, That such salary be not allowed to more than one consul for any one of the states on the said coast.

SEC. 6. *And be it further enacted,* That every consul and vice consul shall, before they enter on the execution of their trusts, or if already in the execution of the same, within one year from the passing of this act, or, if resident in Asia, within two years, give bond with such sureties as shall be approved by the secretary of state, in a sum of not less than two thousand, nor more than ten thousand dollars, conditioned for the true and faithful discharge of the duties of his office, according to law, and also for truly accounting for all moneys, goods, and effects, which may come into his possession by virtue of this act: and the said bond shall be lodged in the office of the secretary of the treasury.

SEC. 7. *And be it further enacted,* That to prevent the mariners and seamen, employed in vessels belonging to citizens of the United States, in cases of shipwreck, sickness or captivity, from suffering in foreign ports, it shall be the duty of the consuls and vice consuls, respectively, from time to time, to provide for them in the most reasonable manner, at the expense of the United States, subject to such instructions as the secretary of state shall give, and not exceeding an allowance of twelve cents to a man per diem; and all masters and commanders of vessels belonging to citizens of the United States, and bound to some port of the same, are hereby required and enjoined to take such mariners or seamen on board of their ships or vessels, at the request of the said consuls or vice consuls, respectively, and to transport them to the port, in the United States, to which such ships or vessels may be bound, free of cost or charge; but that the said mariners or seamen shall, if able, be bound to do duty on board such ships or vessels, according to their several abilities: *Provided,* That no master or captain of any ship or vessel, shall be obliged to take a greater number than two men to every one hundred tons burthen of the said ship or vessel, on any one voyage; and if any such captain or master shall refuse the same, on the request or order of the consul or vice consul, such captain or master shall forfeit and pay the sum of thirty dollars for each mariner or seaman so refused, to be recovered, for the benefit of the United States, by the said consul or vice consul, in his own name, in any court of competent jurisdiction.

SEC. 8.* *And be it further enacted,* That where a ship or vessel belonging to citizens of the United States is sold in a foreign port or place, the master, unless the crew are liable by their contract, or do consent, to be discharged there, shall send them back to the state where they entered on board, or furnish them with means sufficient for their return, to be ascertained by the consul or vice consul of the United States, having jurisdiction of the port or place. And in case of the master's refusal, the said consul or vice consul may, (if the laws of the land permit it) cause his ship, goods, and person, to be arrested and held until he shall comply with his duty herein.

*This sec. repealed, by sec. 5 of the act of Feb. 28, 1803: supplied by sec. 3 of the same act, p. 86.

SEC. 9. *And be it further enacted*, That the specification of certain powers and duties in this act, to be exercised or performed by the consuls and vice consuls of the United States, shall not be construed to the exclusion of others resulting from the nature of their appointments, or any treaty or convention, under which they may act. [Approved, April 14, 1792.]

[Act of 28th Feb., 1803.]

For every certificate of discharge of any seaman, or mariner in a foreign port, fifty cents. For paying and receiving the amount of wages payable, on the discharge of seamen in foreign ports, two and a half per cent.

[Act of 1st March, 1823.]

For every verification and certificate (under the said act, regulating the collection of duties) before a consul or commercial agent, provided each shipper shall have the right to include all articles shipped by him, in the same invoice, two dollars.

No. 4.—*An act supplementary to the "Act concerning consuls and vice-consuls," and for the further protection of American seamen.*

U. S. Laws, vol. 3, page 526.

SEC. 1. *Be it enacted, &c.* That before a clearance be granted to any vessel bound on a foreign voyage, the master thereof shall deliver to the collector of the customs a list, containing the names, places of births and residence, and a description of the persons who compose his ship's company, to which list the oath or affirmation of the captain shall be annexed, that the said list contains the names of his crew, together with the places of their birth and residence, as far as he can ascertain them, and the said collector shall deliver him a certified copy thereof, for which the collector shall be entitled to receive the sum of twenty-five cents; and the said master shall, moreover, enter into bond with sufficient security, in the sum of four hundred dollars, that he shall exhibit the aforesaid certified copy of the list to the first boarding officer, at the first port in the United States at which he shall arrive, on his return thereto, and then and there also produce the persons named therein, to the said boarding officer, whose duty it shall be to examine the men with such list, and to report the same to the collector; and it shall be the duty of the collector at the said port of arrival, (where the same is different from the port from which the vessel originally sailed,) to transmit a copy of the list so reported to him, to the collector of the port from which said vessel originally sailed: *Provided*, That the said bond shall not be forfeited on account of the said master not producing to the first boarding officer, as aforesaid, any of the persons contained in the said list, who may be discharged in a foreign country, with the consent of the consul, vice consul, commercial agent, or vice commercial agent, there residing, signified in writing, under his hand and official seal, to be produced to the collector

with the other persons composing the crew, as aforesaid; nor on account of any such person dying or absconding, or being forcibly impressed into other service, of which satisfactory proof shall be then also exhibited to the collector.

SEC. 2. *And be it enacted,* That it shall be the duty of every master and commander of a ship or vessel, belonging to citizens of the United States, who shall sail from any port of the United States, after the first day of May next, on his arrival at a foreign port, to deposit his register, sea letter, and Mediterranean passport, with the consul, vice consul, commercial agent, or vice commercial agent, (if any there be at such port;) that in case of refusal or neglect of the said master or commander to deposit the said papers as aforesaid, he shall forfeit and pay five hundred dollars, to be recovered by the said consul, vice consul, commercial agent, or vice commercial agent, in his own name, for the benefit of the United States, in any court of competent jurisdiction; and it shall be the duty of such consul, vice consul, commercial agent, or vice commercial agent, on such master or commander producing to him a clearance from the proper officer of the port where his ship or vessel may be, to deliver to the said master or commander all of his said papers: *Provided,* such master or commander shall have complied with the provisions contained in this act, and those of the act of which this is a supplement.

SEC. 3. *And be it further enacted,* That whenever a ship or vessel, belonging to a citizen of the United States, shall be sold in a foreign country, and her company discharged, or when a seaman or mariner, a citizen of the United States, shall, with his own consent, be discharged in a foreign country, it shall be the duty of the master or commander to produce to the consul, vice consul, commercial agent, or vice commercial agent, the list of his ship's company, certified as aforesaid, and to pay to such consul, vice consul, commercial agent, or vice commercial agent, for every seaman or mariner so discharged, being designated on such list as a citizen of the United States, three months' pay, over and above the wages which may then be due to such mariner or seaman, two-thirds, thereof to be paid by such consul or commercial agent, to each seaman or mariner so discharged, upon his engagement on board of any vessel to return to the United States, and the other remaining third to be retained for the purpose of creating a fund for the payment of the passages of seamen or mariners, citizens of the United States, who may be desirous of returning to the United States, and for the maintenance of American seamen who may be destitute, and may be in such foreign port; and the several sums retained for such fund shall be accounted for with the treasury every six months, by the persons receiving the same.

SEC. 4. *And be it further enacted,* That it shall be the duty of the consuls, vice consuls, commercial agents, [or] vice commercial agents of the United States, from time to time, to provide for the mariners, and seamen

of the United States, who may be found destitute within their districts, respectively, sufficient subsistence and passages to some port in the United States, in the most reasonable manner, at the expense of the United States, subject to such instructions as the secretary of state shall give; and that all masters and commanders of vessels belonging to citizens of the United States, and bound to some port of the same, are hereby required and enjoined to take such mariners or seamen on board of their ships or vessels, at the request of the said consuls, vice consuls, commercial agents, or vice commercial agents, respectively, and to transport them to the port in the United States, to which such ships or vessels may be bound, on such terms, not exceeding ten dollars for each person, as may be agreed between the said master and consul, or commercial agent. And the said mariners or seamen shall, if able, be bound to do duty on board such ships or vessels, according to their several abilities: *Provided*, That no master or captain of any ship or vessels shall be obliged to take a greater number than two men to every one hundred tons of burthen of the said ship or vessel, on any one voyage; and if any such captain or master shall refuse the same, on the request or order of the consul, vice consul, commercial agent, or vice commercial agent, such captain or master shall forfeit and pay the sum of one hundred dollars for each mariner or seamen so refused, to be recovered, for the benefit of the United States, in any court of competent jurisdiction. And the certificate of such consul or commercial agent, given under his hand and official seal, shall be prima facie evidence of such refusal, in any court of law having jurisdiction for the recovery of the penalty aforesaid

SEC. 5. *And be it further enacted*, That the seventh and eighth sections of the act, entitled "An act concerning consuls and vice consuls," be and the same are hereby repealed; and that the secretary of state be authorized to reimburse the consuls, vice consuls, commercial agents, or vice commercial agents, such reasonable sums as they may heretofore have advanced for the relief of seamen, though the same should exceed the rate of twelve cents a man per diem.

SEC. 6. *And be it further enacted*, That it shall and may be lawful for every consul, vice consul, commercial agent, and vice commercial agent, of the United States, to take and receive, for every certificate of discharge of any seaman or mariner in a foreign port, fifty cents; and for commission on paying and receiving the amount of wages payable on the discharge of seamen in foreign ports, two and a half per centum.

SEC. 7. *And be it further enacted*, That if any consul, vice consul, commercial agent, or vice commercial agent, shall, falsely, and knowingly, certify that the property belonging to foreigners is property belonging to citizens of the United States, he shall, on conviction thereof, in any court of competent jurisdiction, forfeit and pay a fine not exceeding ten thousand dollars, at the discretion of the court, and be imprisoned for any term not exceeding three years.

SEC. 8. *And be it further enacted*, That if any consul, vice consul, commercial agent, or vice commercial agent, shall grant a passport, or other paper, certifying that any alien, knowing him or her to be such, is a citizen of the United States, he shall, on conviction thereof, in any court of competent jurisdiction, forfeit and pay a fine not exceeding one thousand dollars.

SEC. 9. *And be it further enacted*, That all powers of attorney, executed after the thirtieth day of June next, in a foreign country, for the transfer of any stock of the United States, or for the receipt of interest thereon shall be verified by the certificate and seal of a consul, vice consul, commercial agent, or vice commercial agent, if any there be, at the place where the same shall be executed, for which the person giving the certificate shall receive fifty cents.

[*Approved February 28, 1803.*]

EQUALIZATION OF DUTIES.

[By the second article of the convention made at London, on the 3d of July, 1815, the duties of impost and tonnage were equalized between the United States and Great Britain; in consequence of which an act was passed on the 1st of March, 1816, declaring that so much of any act as imposes a higher duty of tonnage, or of imposts, on vessels and articles imported in vessels, of Great Britain, than on vessels, and articles, imported in vessels, of the United States, contrary to the provisions of that convention, should, from and after the date of the ratification, and during its continuance, be deemed and taken to be of no force or effect. By the 6th section of "An act to regulate the duties on imports and tonnage," approved on the 27th of April, 1816, it is declared that the duty on the tonnage of vessels shall continue the same as the existing law provides: but this provision is not to be deemed in any wise to impair any rights and privileges which have been, or may be, acquired by any foreign nation, under the laws and treaties of the United States, relative to the duty of tonnage on vessels.]

No. 5.—*An act to repeal so much of the several acts imposing duties on the tonnage of ships and vessels, and on goods, wares, and merchandise, imported into the United States, as imposes a discriminating duty on tonnage, between foreign vessels and vessels of the United States, and between goods imported into the United States in foreign vessels and vessels of the United States.*

U. S. Laws, vol. 4, page 824.

SEC. 1. *Be it enacted, &c.* That so much of the several acts imposing duties on the tonnage of ships and vessels, and on goods, wares, and merchandise, imported into the United States, as imposes a discriminating duty of tonnage, between foreign vessels and vessels of the United States, and

between goods imported into the United States in foreign vessels and vessels of the United States, be, and the same are hereby, repealed, so far as the same respects the produce or manufacture of the nation to which such foreign ships or vessels may belong. Such repeal to take effect in favor of any foreign nation, whenever the president of the United States shall be satisfied that the discriminating or countervailing duties of such foreign nation, so far as they operate to the disadvantage of the United States, have been abolished.

[Approved, March 3, 1815.]

DEPOSITE OF FOREIGN CONSULAR PAPERS.

No. 6.—*An act authorizing the Deposit of the Papers of foreign Vessels with the Consul of their respective Nations.*

U. S. Laws, vol. 6. page 194.

SEC. 1. *Be it enacted, &c.* That the register, or other document in lieu thereof, together with the clearance and other papers, granted by the officers of the customs to any foreign ship or vessel, at her departure from the port or place from which she may have arrived, shall, previously to entry in any port of the United States, be produced to the collector with whom such entry is to be made. And it shall be the duty of the master or commander, within forty-eight hours after such entry, to deposite the said papers with the consul or vice consul of the nation to which the vessel belongs, and to deliver to the collector the certificate of such consul or vice consul, that the said papers have been so deposited; and any master or commander, as aforesaid, who shall fail to comply with this regulation, shall, upon conviction thereof in any court of competent jurisdiction, be fined in a sum not less than five hundred dollars nor exceeding two thousand dollars: *Provided*; That this act shall not extend to the vessels of foreign nations in whose ports American consuls are not permitted to have the custody and possession of the register and other papers of vessels entering the ports of such nation, according to the provisions of the second section of the act, supplementary to the act “concerning consuls and vice consuls, and for the further protection of American seamen,” passed the twenty-eighth of February, one thousand eight hundred and three.

SEC. 2. *And be it further enacted,* That it shall not be lawful for any foreign consul to deliver to the master or commander of any foreign vessel the register and other papers deposited with him pursuant to the provisions of this act, until such master or commander shall produce to him a clearance, in due form, from the collector of the port where such vessel has been entered; and any consul offending against the provisions of this act, shall upon conviction thereof before the supreme court of the United States, be fined, at the discretion of the court in a sum not less than five hundred dollars nor exceeding five thousand dollars.

[Approved, March 3, 1817.]

PASSENGER VESSELS.

No. 7.—*An act regulating passenger ships and vessels.*

SEC. 1. If the master or other person on board of any vessel, owned in the whole or in part by a citizen or citizens of the United States, or the territories thereof, or by a subject or subjects, citizen or citizens, of any foreign country, shall after the first day of January next, take on board of such vessel, at any foreign port or place, or shall bring or convey into the United States, or the territories thereof, from any foreign port or place; or shall carry, convey, or transport, from the United States, or the territories thereof, to any foreign port or place, a greater number of passengers than two for every five tons of such vessel, according to custom-house measurement, every such master, or other person so offending, and the owner or owners of such vessel, shall severally forfeit and pay to the United States, the sum of one hundred and fifty dollars, for each and every passenger so taken on board of such vessel over and above the aforesaid number of two to every five tons of such vessel; to be recovered by suit, in any circuit or district court of the United States, where the said vessel may arrive, or where the owner or owners aforesaid, may reside: *Provided, nevertheless,* That nothing in this act shall be taken to apply to the complement of men usually and ordinarily employed in navigating such vessel.

SEC. 2. If the number of passengers so taken on board of any vessel as aforesaid, or conveyed or brought into the United States, or transported therefrom as aforesaid, shall exceed the said proportion of two to every five tons of such vessel, by the number of twenty passengers in the whole, every such ship or vessel shall be deemed and taken to be forfeited to the United States, and shall be prosecuted and distributed in the same manner in which the forfeitures and penalties are recovered and distributed under the provisions of the act, entitled "An act to regulate the collection of duties on imports and tonnage."

SEC. 3. Every vessel bound on a voyage from the United States to any port on the continent of Europe, at the time of leaving the last port whence such vessel shall sail, shall have on board, well secured under deck, at least sixty gallons of water, one hundred pounds of salted provisions, one gallon of vinegar, and one hundred pounds of wholesome ship bread, for each and every passenger on board such vessel, over and above such other provisions, stores, and live stock, as may be put on board by such master or passenger for their use; or that of the crew of such vessel; and in like proportion for a shorter or longer voyage; and if the passengers on board of such vessel in which the proportion of provisions herein directed shall not have been provided, shall at any time be put on short allowance, in water, flesh, vinegar, or bread, during any voyage aforesaid, the master and owner of such vessel shall severally pay to each and every passenger who shall have been put on short allowance as aforesaid, the sum of three dollars for each and every

day they may have been on such short allowance; to be recovered in the same manner as seamen's wages are, or may be recovered.

SEC. 4. The captain or master of any vessel arriving in the United States, or any of the territories thereof, from any foreign place whatever, at the same time that he delivers a manifest of the cargo, and if there be no cargo, then at the time of making report or entry of the vessel, pursuant to the existing laws of the United States, shall also deliver and report to the collector of the district in which such vessel shall arrive, a list or manifest of all the passengers taken on board of the said ship or vessel at any foreign place; in which list or manifest it shall be the duty of the said master to designate, particularly, the age, sex, and occupation, of the said passengers, respectively, the country to which they severally belong, and that of which it is their intention to become inhabitants; and shall further set forth whether any, and what number have died on the voyage; which report and manifest shall be sworn to by the said master, in the same manner as is directed by the existing laws of the United States, in relation to the manifest of the cargo, and that the refusal or neglect of the master aforesaid, to comply with the provisions of this section, shall incur the same penalties, disabilities, and forfeitures, as are at present provided for a refusal or neglect to report and deliver a manifest of the cargo aforesaid.

SEC. 5. Each and every collector of the customs, to whom such manifest or list of passengers as aforesaid shall be delivered, shall, quarter yearly, return copies thereof to the secretary of state of the United States, by whom statements of the same shall be laid before congress at each and every session.

[Approved March 2d, 1819.]

No. 8.—*Concerning the navigation of the United States.*

[Act of 1st March, 1817.]

SEC. 1. After the thirtieth day of September next, no goods shall be imported into the United States from any foreign port or place, except in vessels of the United States, or in such foreign vessels as truly and wholly belong to the citizens or subjects of that country of which the goods are the growth, production, or manufacture; or from which such goods, can only be, or most usually are, first shipped for transportation: *Provided, nevertheless,* That this regulation shall not extend to the vessels of any foreign nation which has not adopted, and which shall not adopt a similar regulation.

SEC. 2. All goods, imported into the United States, contrary to the true intent and meaning of this act, and the ship or vessel wherein the same shall be imported, together with her cargo, tackle, apparel, and furniture, shall be forfeited to the United States; and such goods, vessels, and cargo, shall be liable to be seized, prosecuted, and condemned, in like manner, and under the same regulations, restrictions, and provisions as have been here-

tofore established for the recovery, collection, distribution, and remission of forfeitures to the United States by the several revenue laws.

SEC. 4. No goods shall be imported, under penalty of forfeiture thereof, from one port of the United States to another port of the United States, in a vessel belonging wholly or in part to a subject of any foreign power; but this clause shall not be construed to prohibit the sailing of any foreign vessel from one to another port of the United States, provided no goods, wares, or merchandise, other than those imported in such vessel from some foreign port, and which shall not have been unladen, shall be carried from one port or place to another, in the United States.

[Act of 18th April, 1818.]

SEC. 1. From and after the thirtieth of September next, the ports of the United States shall be and remain closed against every vessel owned wholly or in part, by a subject or subjects of his Britannic majesty, coming or arriving from any port or place in a colony or territory of his Britannic majesty, that is or shall be, by the ordinary laws of navigation and trade, closed against vessels owned by citizens of the United States; and such vessel, that in the course of the voyage, shall have touched at, or cleared out from any port or place in a colony or territory of Great Britain, which shall or may be, by the ordinary laws of navigation and trade aforesaid, open to vessels owned by citizens of the United States, shall, nevertheless, be deemed to have come from the port or place in the colony or territory of Great Britain closed as aforesaid, against vessels owned by citizens of the United States, from which such vessel cleared out and sailed before touching at, and clearing out from an intermediate and open port or place as aforesaid; and every such vessel, so excluded from the ports of the United States, that shall enter or attempt to enter the same, in violation of this act, shall, with her tackle, apparel, and furniture, together with the cargo on board such vessel, be forfeited to the United States.

SEC. 2. From and after the aforesaid thirtieth of September next, the owner, consignee, or agent, of every vessel owned wholly or in part, by a subject or subjects of his Britannic majesty, which shall have been duly entered in any port of the United States, and on board of which shall have been there laden for exportation any article or articles of the growth, produce, or manufacture of the United States, other than provisions and sea stores necessary for the voyage, shall, before such vessel shall have been cleared outward at the custom-house, give bond in a sum double the value of such articles, with one or more sureties, to the satisfaction of the collector, that the article or articles so laden on board such vessel for exportation, shall be landed in some port or place other than a port or place in a colony or territory of his Britannic majesty, which, by the ordinary laws of navigation and trade, is closed against vessels owned by citizens of the United

States; and any such vessel that shall sail, or attempt to sail from any port of the United States, without having complied with the provision aforesaid, by giving bond as aforesaid, shall, with her tackle, apparel, and furniture, together with the article or articles aforesaid, laden on board the same as aforesaid, be forfeited to the United States. *Provided, always,* That nothing in this act contained shall be so deemed, or construed so as to violate any provision of the convention to regulate commerce between the territories of the United States and his Britannic majesty, signed the third day of July, one thousand eight hundred and fifteen.

SEC. 3. The form of the bond aforesaid, shall be prescribed by the secretary of the department of the treasury, and the same shall and may be discharged, and not otherwise, by producing, within one year after the date thereof, a like certificate, to that required by, and under the regulations contained in the eighty-first section of the act, "to regulate the collection of duties on imports," passed the second day of March, seventeen hundred and ninety-nine, that the articles of the growth, produce, and manufacture of the United States, laden as aforesaid, were unladen and landed conformably to the provisions of this act, or, in cases of loss by sea, by capture, or other unavoidable accident, by the production of such other proofs as the nature of the case will admit, according to the provisions of the said eighty-first section of the act aforesaid.

SEC. 4. All penalties and forfeitures incurred by force of this act, shall be sued for, recovered, distributed, and accounted for; and may be mitigated or remitted, in the manner, and according to the provisions of the revenue laws of the United States.

No. 9.—*An act supplementary to an act, entitled "an act concerning navigation."*

Act of 15th May, 1820.

SEC. 1. From and after the thirtieth day of September next, the ports of the United States shall be and remain closed against every vessel owned wholly, or in part, by a subject or subjects of his Britannic majesty, coming or arriving by sea, from any port or place in the province of Lower Canada, or coming or arriving from any port or place in the province of New-Brunswick, not included within the act to which this act is supplementary. And every such vessel, so excluded from the ports of the United States, that shall enter, or attempt to enter, the same, in violation of this act, shall, with her tackle, apparel, and furniture, together with the cargo on board such vessel, be forfeited to the United States.

SEC. 2. From and after the thirtieth day of September next, the owner, consignee, or agent, of every vessel owned wholly or in part by a subject or subjects of his Britannic majesty, which shall have been duly entered in

any port of the United States, and on board of which shall have been there laden, for exportation, any article or articles of the growth, produce, or manufacture, of the United States, other than provisions and sea stores necessary for the voyage, shall, before such vessel shall have been cleared outward at the custom-house, give bond, in a sum double the value of such article or articles, with one or more sureties, to the satisfaction of the collector, that the article or articles so laden on board such vessel, for exportation, shall be landed in some port or place in any province, island, colony, territory, or possession, belonging to his Britannic majesty, that is mentioned or described in this act, or in the act to which this act is supplementary. And every such vessel that shall sail, or attempt to sail, from any port of the United States, without having complied with the provisions aforesaid, by giving bond as aforesaid, shall, with her tackle, apparel, and furniture, together with the article or articles aforesaid, laden on board the same as aforesaid, be forfeited to the United States. *Provided*, That nothing herein contained shall be deemed or construed so as to violate any provision of the convention to regulate commerce between the territories of the United States and his Britannic majesty, signed the third day of July, one thousand eight hundred and fifteen.

SEC. 3. From and after the thirtieth day of September next, no goods shall be imported into the United States of America from the province of Nova Scotia, the province of New-Brunswick, the islands of Cape Breton, St. Johns, Newfoundland, or their respective dependencies, from the Bermuda Islands, the Bahama Islands, the islands called Caicos, or either or any of the aforesaid possessions, islands, or places, or from any other province, possession, plantation, island, or place, under the dominion of Great Britain in the West Indies, or on the continent of America, south of the southern boundaries of the United States, except only such goods, wares, and merchandise, as are truly and wholly of the growth, produce, or manufacture, of the province, colony, plantation, island, possession, or place, aforesaid, where the same shall be laden, and from whence such goods, wares, or merchandise, shall be directly imported into the United States; and all goods imported, or attempted to be imported into the United States of America, contrary to the provisions of this act, together with the vessel on board of which the same shall be laden, her tackle, apparel, and furniture, shall be forfeited to the United States.

SEC. 4. The form of the bond aforesaid shall be prescribed, and the same shall be discharged, and all penalties and forfeitures, incurred under this act, shall be sued for, recovered, distributed, and accounted for, and the same may be mitigated, or remitted, in the manner, and according to the provisions, of the act to which this act is supplementary.

No. 10.—*To regulate the Intercourse between the United States and certain British Colonial Ports.*

[Act of 1st March, 1823.]

SEC. 1. From and after the third day of March next, the first, second, and third sections of the “act concerning navigation, passed April eighteenth, 1818,” and the “act supplementary to an act concerning navigation,” approved on 15th May, 1820, are hereby suspended for, and during, the continuance of this act, so far as any of the restrictions or prohibitions therein contained, limit or interdict the intercourse of navigation or commerce between the ports of the United States and the British Colonial ports hereinafter mentioned, to wit: Kingston, Savannah Le Mar, Montego Bay, St. Lucia, Antonia, St. Ann, Falmouth, Maria, Morant Bay, and Annatto Bay, all in Jamaica.—St. George in Grenada, Roseau in Diminico; St. Johns in Antigua; San Josef in Trinidad; Scarborough in Tobago; Road Harbour in Tortola; Nassau in New Providence; Pittstown in Crooked Island; Kingston in St. Vincent; Port St. George and Port Kingston in Bermuda; any port where there is a custom-house in Bahamas; Bridgetown in Barbadoes; St. Johns and St. Andrews, in New Brunswick; Halifax, in Nova Scotia; Quebec, in Canada; St. Johns, in Newfoundland; Georgetown, in Demerara; New Amsterdam, in Berbice; Castries, in St. Lucia; Bassaterre, in St. Kitts; Charleston, in Nevis; Plymouth in Montserrat.

SEC. 2. From and after said third of March next, the ports of the United States shall be open to any British vessel coming directly from any of the British colonial ports above enumerated, and it shall be lawful to import in said vessels being navigated by a master and three-fourths at least, of the mariners British subjects, any articles of the growth, produce, or manufacture of any of said British colonies, the importation of the like articles to which from elsewhere, is not nor shall not be prohibited by law, and which may be exported from any of the said enumerated British ports, to the United States on equal terms, in vessels belonging to the said states.

SEC. 3. That, on proof being given to the president of the United States, satisfactory to him, that upon the vessels of the United States admitted into the above enumerated British colonial ports, and upon any goods, imported therein, in the said vessels, no other or higher duties of tonnage or impost, and no other charges of any kind, are levied or exacted than upon British vessels, or upon the like goods, wares, and merchandise, imported into the said colonial ports from elsewhere, it shall and may be lawful for the president of the United States to issue his proclamation, declaring that no other or higher duty of impost or tonnage, and no other or higher duty or charge of any kind, upon any goods, wares, or merchandise, imported from the above enumerated British colonial ports, in British vessels, shall be levied or exacted in any of the ports of the United States, (excepting the ports in the territory of Florida,) than upon the vessels of the United States; and

upon the like goods, wares, or merchandise, imported into the ports of the United States in the same : *Provided always*, That until such proofs shall be given, British vessels coming from the said British colonial ports, and the goods, wares, and merchandise, imported in the same into the United States, shall continue to pay the foreign tonnage duty, and the additional duties upon goods, imported in foreign vessels, prescribed by the " Act to regulate the duties on imports and tonnage," approved the twenty-seventh of April, one thousand eight hundred and sixteen.

SEC. 4. That no articles whatsoever, specie and bullion excepted, other than articles of the growth, produce, or manufacture, of the British colonies to which the said enumerated ports belong, shall be imported into the United States, in British vessels, coming from any of the said enumerated ports; and that no articles whatsoever, being of the growth, produce, or manufacture of the British colonies, to which the said enumerated ports belong, shall be imported into the United States, in any British vessel, other than a vessel coming directly from one of the said enumerated ports, on pain of forfeiting all such articles, together with the ship or vessel in which the same shall have been imported, and her guns, tackle, apparel, and furniture.

SEC. 5. That it shall be lawful to export from the United States, directly to any of the above enumerated British colonial ports, in any vessel of the United States, or in any British vessel, navigated as by the second section of this act is prescribed, and having come directly from any of the above enumerated British colonial ports, any article of the growth, produce, or manufacture of the United States, or any other article legally imported therein, the exportation of which, elsewhere, shall not be prohibited by law: *Provided*, That when exported in any such British vessel, before the shipment of any such articles, security, by bond, shall be given to the United States, in a penalty equal to half the value of the said articles; such bond to be taken of the owner, consignee, or agent, by the collector of the port at which the said British vessel shall have entered, for the due landing of the said articles, at the port or ports, being of the British colonial ports herein above enumerated, for which the said vessel shall clear out, and for producing a certificate thereof, within twelve months from the date of said bond, under the hand and seal of the consul or commercial agent of the United States, resident at the port where the said articles shall have been landed; or if there shall be no consul or commercial agent of the United States residing there, such certificate to be under the hand and seal of the chief officer of the customs at such port, or under the hand and seal of two known and reputable merchants residing at such port; but such bond may be discharged, by proof, on oath, by credible persons, that the said articles were taken by enemies, or perished in the seas. And it shall not be lawful to export, from the United States, any article whatsoever, to any of the above enumerated British colonial ports, in any British vessel, other than

such as shall have come directly from one of the said ports to the United States; nor shall it be lawful to export from the United States any article whatsoever, in any British vessel, having come from any of the said enumerated ports, to any other port or place, whatsoever, than directly to one of the said ports. And in case any such articles shall be shipped or waterborne, for the purpose of being exported, contrary to this act, the same shall be forfeited, and shall and may be seized and prosecuted, in like manner as for any other violation of the revenue laws of the United States.

SEC. 6. That this act, unless repealed, altered, or amended, by congress, shall be and continue in force so long as the above enumerated British colonial ports shall be open to the admission of vessels of the United States, conformably to the provisions of the British act of parliament, of the 24th of June last, being the forty-fourth chapter of the acts of the third year of George the Fourth. But if at any time, the trade and intercourse between the United States and all or any of the above enumerated British colonial ports, authorized by the said act of parliament, should be prohibited by a British order in council, or by act of parliament, then, from the day of the date of such order in council, or act of parliament, or from the time that the same shall commence to be in force, proclamation to that effect having been made by the president of the United States, each and every provision of this act, so far as the same shall apply to the intercourse between the United States and the above enumerated British colonial ports, in British vessels, shall cease to operate in their favor: and each and every provision of the "Act concerning navigation," approved on the eighteenth of April, one thousand eight hundred and eighteen; and of the act supplementary thereto, approved on the fifteenth of May, one thousand eight hundred and twenty, shall revive and be in full force.

SEC. 7. That if any British colonial port in the American hemisphere, other than those herein above enumerated, should, by virtue of a British order in council, be opened to vessels of the United States, conformably to the provisions of the said act of parliament of the twenty-fourth of June last, each and every provision of this act shall extend to the same, from the time when it shall be so opened to the vessels of the United States.

SEC. 8. That the form of the bond aforesaid shall be prescribed by the secretary of the treasury; and all penalties and forfeitures, incurred under this act, shall be sued for, recovered, distributed, and accounted for, and the same may be mitigated or remitted, in the manner, and according to the provisions, of the revenue laws of the United States.

No. 11.—*President's Proclamation.* [17th March, 1827.]

Whereas, by the 6th section of an act of congress, entitled "An act to regulate the commercial intercourse between the United States and certain British Colonial ports," which was approved on the first day of March, in the year of our Lord, 1823, it is enacted "that this act unless repealed,

"altered, or amended by congress, shall be and continue in force so long as
 "the above enumerated British Colonial ports shall be open to the admission
 "of the vessels of the United States conformably to the provisions of the Bri-
 "tish act of parliament, of the 24th of June last, being the forty-fourth
 "chapter of the acts of the third year of George the Fourth: but if, at any
 "time, the trade and intercourse between the United States, and all, or
 "any, of the above enumerated British Colonial ports, authorized by the
 "said act of parliament, should be prohibited by a British order in council,
 "or by act of parliament, then, from the day of the date of such order in
 "council, or act of parliament, or from the time that the same shall com-
 "mence to be in force, proclamation to that effect having been made by the
 "president of the United States, each and every provision of this act, so far
 "as the same shall apply to the intercourse between the United States, and
 "the above enumerated British Colonial ports, in British vessels, shall cease
 "to operate in their favor; and each and every provision of the "Act
 "concerning navigation approved on the 18th of April, 1818, and of the
 "Act supplementary thereto, approved on the 15th of May, 1820, shall
 "revive, and be in full force."

And whereas, by an act of the British parliament, which passed on the
 5th day of July, in the year of our Lord 1825, entitled "An act to repeal
 the several laws relating to the "customs," the said act of parliament of
 the 24th of June, 1822, was repealed, and by another act of the British par-
 liament, passed on the 5th day of July, in the year of our Lord 1825, in the
 sixth year of the reign of George the Fourth, entitled "An act to regulate
 the trade of the British possessions abroad," and by an order of his Britan-
 nic majesty in council, bearing date the 27th of July, 1826, the trade and
 intercourse authorized by the aforesaid act of parliament, of the 24th of June,
 1822, between the United States, and the greater part of the said British
 Colonial ports therein enumerated, have been prohibited, upon, and from,
 the first day of December last past, and the contingency has thereby arisen
 on which the president of the United States was authorized by the 6th sec-
 tion aforesaid of the act of congress of 1st March, 1823, to issue a procla-
 mation to the effect therein mentioned:

Now, therefore, I, John Quincy Adams, president of the United States
 of America, do hereby declare and proclaim that the trade and intercourse
 authorized by the said act of parliament of the 24th of June, 1822, between
 the United States and the British Colonial ports enumerated in the afore-
 said act of congress of the 1st of March, 1823, have been, and are, upon
 and from the first day of December, 1826, by the aforesaid two several acts
 of parliament of the 5th of July, 1825, and by the aforesaid British order in
 council, of the 27th day of July, 1826, prohibited.

Given under my hand at the City of Washington, this 17th day of March,
 in the year of our Lord 1827, and the fifty-first of the Independence
 of the United States.

JOHN QUINCY ADAMS.

By the President:

H. CLAY, *Secretary of State.*

No. 12.—*An act, to amend the acts, regulating the Commercial intercourse between the United States and certain colonies of Great Britain.*

[Act of 29th May, 1830.]

SEC. 1. That whenever the president of the United States shall receive satisfactory evidence that the government of Great Britain will open the ports in its colonial possessions in the West Indies, on the continent of South America, the Bahama Islands, the Caicos, and the Bermuda or Somer Islands, to the vessels of the United States, for an indefinite or for a limited term; that the vessels of the United States and their cargoes, on entering the colonial ports aforesaid, shall not be subject to other or higher duties of tonnage or impost, or charges of any other description, than would be imposed on British vessels or their cargoes, arriving in said colonial possessions from the United States; that the vessels of the United States may import into the said colonial possessions from the United States any article or articles which could be imported in a British vessel into the said possessions from the United States; and that the vessels of the United States may export from the British colonies aforesaid, to any country whatever, other than the dominions or possessions of Great Britain, any article or articles that can be exported therefrom in a British vessel, to any country other than the British dominions or possessions as aforesaid; leaving the commercial intercourse of the United States, with all other parts of the British dominions or possessions, on a footing not less favorable to the United States than it now is, and that then, and in such case, the president of the United States shall, and he is hereby authorized at any time before the next session of Congress, to issue his proclamation, declaring that he has received such evidence; and, thereupon, from the date of such proclamation, the ports of the United States shall be opened, indefinitely, or for a term fixed, as the case may be, to British vessels coming from the said British colonial possessions, and their cargoes, subject to no other or higher duty of tonnage or impost, or charge of any description whatever, than would be levied on the vessels of the United States, or their cargoes, arriving from the said British possessions; and it shall be lawful for the said British vessels to import into the United States, and to export therefrom, any article or articles which may be imported or exported in vessels of the United States: and the act, entitled “An act concerning navigation,” passed on the 18th day of April, one thousand eight hundred and eighteen; an act supplementary thereto, passed the fifteenth day of May, one thousand eight hundred and twenty; and an act entitled “An act to regulate the commercial intercourse between the United States and certain British ports,” passed on the first day of March, one thousand eight hundred and twenty-three, are, in such case, hereby declared to be suspended, or absolutely repealed, as the case may require.

SEC. 2. That whenever the ports of the United States shall have been opened, under the authority given in the first section of this act, British vessels and their cargoes shall be admitted to an entry in the ports of the United States from the islands, provinces, or colonies, of Great Britain, on or near the North American continent, and north or east of the United States.

No. 13.—*Proclamation of the president of the 5th of October, 1830, declaring the ports of the United States to be open to British vessels with their cargoes, from certain British colonial ports.*

By the president of the United States of America. A Proclamation:

Whereas, by an act of the congress of the United States, passed on the twenty-ninth day of May, one thousand eight hundred and thirty, it is provided, that *whenever* the president of the United States shall *receive satisfactory evidence* that the government of Great Britain will open the ports in its colonial possessions in the West Indies, on the continent of South America, the Bahama islands, the Caicos, and the Bermuda or Somer islands, to the vessels of the United States, for an indefinite or for a limited term; that the vessels of the United States, and their cargoes, on entering the colonial ports aforesaid, shall not be subject to other or higher duties of tonnage or impost, or charges of any other other description, than would be imposed on British vessels, or their cargoes, arriving in the said colonial possessions from the United States; that the vessels of the United States may import into the said colonial possessions, from the United States, any article or articles which could be imported in a British vessel into the said possessions, from the United States; and that the vessels of the United States may export from the British colonies, aftermentioned, to any country whatever, other than the dominions or possessions of Great Britain, any article or articles that can be exported therefrom in a British vessel, to any country other than the British dominions or possessions aforesaid; leaving the commercial intercourse of the United States with all other parts of the British dominions or possessions on a footing not less favorable to the United States than it now is, that then, and in such case, the president of the United States shall be authorized, at any time before the next session of congress, to issue his proclamation, declaring that he has received such evidence; and that, thereupon, and from the date of such proclamation, the ports of the United States shall be opened, indefinitely, or for a term fixed, as the case may be, to British vessels coming from the said British colonial possessions, and their cargoes, subject to no other or higher duty of tonnage or impost, or charge of any description whatever, than would be levied on the vessels of the United States, or their cargoes, arriving from the said British possessions; and that it shall be lawful for the said British vessels to import into the United States, and to export therefrom, any article or articles which may be imported or exported in vessels of the United States; and that the act, entitled "An act concerning navigation," passed on the eighteenth day of April, one thousand eight hundred and eighteen, an act supplementary thereto, passed the fifteenth day of May, one thousand eight hundred and twenty, and an act, entitled "An act to regulate the commercial intercourse between the United States and certain British ports," passed on the first day of March, one thousand eight hundred and twenty-three, shall, in such case, be suspended, or absolutely repealed, as the case may require.

And whereas, by the said act, it is further provided, that whenever the ports of the United States shall have been opened under the authority thereby given, British vessels and their cargoes shall be admitted to an entry in the ports of the United States, from the islands, provinces, or colonies of Great Britain, on or near the North American continent, and north or east of the United States.

And whereas, *satisfactory evidence has been received* by the president of the United States, that, whenever he shall give effect to the provisions of the act aforesaid, the government of Great Britain will open, for an indefinite period, the ports in its colonial possessions in the West Indies, on the continent of South America, the Bahama islands, the Caicos, and the Bermuda or Somer islands, to the vessels of the United States, and their cargoes, upon the terms, and according to the requisitions of the aforesaid act of congress.

Now, therefore, I, Andrew Jackson, president of the United States of America, do hereby declare and proclaim that such evidence has been received by me; and that, by the operation of the act of congress passed on the twenty-ninth day of May, one thousand eight hundred and thirty, the ports of the United States are, from the date of this proclamation, open to British vessels coming from the said British possessions, and their cargoes, upon the terms set forth in said act; the act, entitled "An act concerning navigation," passed on the eighteenth day of April, one thousand eight hundred and eighteen, the act supplementary thereto, passed the fifteenth day of May, one thousand eight hundred and twenty, and the act, entitled "An act to regulate the commercial intercourse between the United States and certain British ports," passed the first day of March, one thousand eight hundred and twenty-three, are absolutely repealed: the British vessels and their cargoes are admitted to an entry in the ports of the United States, from the islands, provinces, and colonies of Great Britain, on or near the North American continent, and north or east of the United States.

Given under my hand, at the City of Washington, the fifth day of October, in the year of our Lord one thousand eight hundred and thirty, and the fifty-fifth of the Independence of the United States.

ANDREW JACKSON.

By the President: M. VAN BUREN, *Secretary of State.*

No. 14.—*An act to equalize the duties on vessels of the Republic of Columbia, (Columbia,) and their cargoes.*

[Act of 20th April, 1826.]

Be it enacted, &c. That no other or higher rate of duties shall be imposed or collected on vessels of the Republic of Columbia (Columbia), and their cargoes, consisting of articles of the growth, produce, or manufacture, of said Republic, than are, or may be, payable on vessels of the United States, with cargoes composed as aforesaid.

Sec. 2. *And be it further enacted,* That the secretary of the treasury be,

and he is hereby, authorized to return all duties which have been assessed since the twenty-ninth January, eighteen hundred and twenty-six, on vessels of the Republic of Columbia (Colombia), and their cargoes composed of articles of the growth, produce, or manufacture, of the said Republic, beyond the amount which would have been payable on vessels of the United States and cargoes, composed as aforesaid, imported therein; and that the same allowances of drawback on exportations, in vessels of the Republic of Columbia (Colombia), be made as on the like exportations, in vessels of the United States.

SEC. 3. *And be it further enacted,* That this act shall continue and be in force during the time that the equality for which it provides shall, in all respects, be reciprocated in the ports of the Republic of Columbia (Colombia); and if, at any time hereafter, the said equality shall not be reciprocated in the ports of the said Republic, the president may, and he is hereby authorized to, issue his proclamation, declaring that fact, whereupon this act shall cease and determine.

SLAVE TRADE.

No. 15.—*An act to prohibit the carrying on the slave trade, from the United States to any foreign place or country.*

[Act of March 22, 1794.]

SEC. 1. *Be it enacted,* That no citizen or citizens of the United States, or foreigner, or any other person coming into, or residing within, the same, shall, for himself or any other person whatsoever, either as master, factor, or owner, build, fit, equip, load, or otherwise prepare, any ship or vessel, within any port or place of the said United States, nor shall cause any ship or vessel to sail from any port or place within the same, for the purpose of carrying on any trade or traffic in slaves, to any foreign country; or for the purpose of procuring, from any foreign kingdom, place, or country, the inhabitants of such kingdom, place, or country, to be transported to any foreign country, port, or place, whatever, to be sold or disposed of as slaves: And if any ship or vessel shall be so fitted out, as aforesaid, for the said purpose, or shall be caused to sail, so as aforesaid, every such ship or vessel, her tackle, furniture, apparel, and other appertenances, shall be forfeited to the United States; and shall be liable to be seized, prosecuted, and condemned, in any of the circuit courts or district court for the district where the said ship or vessel may be found and seized.

SEC. 2. That all and every person, so building, fitting out, equipping, loading, or otherwise preparing, or sending away any ship or vessel, knowing, or intending, that the same shall be employed in such trade or business, contrary to the true intent and meaning of this act, or any ways aiding or abetting therein, shall, severally, forfeit and pay the sum of two thousand dollars, one moiety thereof to the use of the United States, and the other moiety thereof to the use of him, or her, who shall sue for and prosecute the same.

SEC. 3. That the owner, master, or factor, of each and every foreign ship or vessel, clearing out for any of the coasts or kingdoms of Africa, or suspected to be intended for the slave trade, and the suspicion being declared to the officer of the customs, by any citizen, on oath or affirmation, and such information being to the satisfaction of the said officer, shall first give bond, with sufficient sureties, to the treasurer of the United States, that none of the natives of Africa, or any other foreign country or place, shall be taken on board the said ship or vessel, to be transported, or sold, as slaves, in any other foreign port or place whatever, within nine months thereafter.

SEC. 4. That if any citizen or citizens of the United States shall, contrary to the true intent and meaning of this act, take on board, receive, or transport, any such persons, as above described, in this act, for the purpose of selling them as slaves, as aforesaid, he or they shall forfeit and pay, for each and every person so received on board, transported, or sold, as aforesaid, the sum of two hundred dollars, to be recovered in any court of the United States proper to try the same; the one moiety thereof to the use of the United States, and the other moiety to the use of such person or persons who shall sue for and prosecute the same.

No. 16.—*An act in addition to the act, entitled "An act to prohibit the carrying on the Slave Trade from the United States to any foreign place or country."*

[Act of May 10, 1800.]

SEC. 1. *Be it enacted, &c.* That it shall be unlawful for any citizen of the United States, or other person residing within the United States, directly or indirectly to hold or have any right or property in any vessel employed or made use of in the transportation or carrying of slaves from one foreign country or place to another, and any right or property, belonging as aforesaid, shall be forfeited, and may be libelled and condemned for the use of the person who shall sue for the same; and such person, transgressing the prohibition aforesaid, shall also forfeit and pay a sum of money equal to double the value of the right or property in such vessel, which he held as aforesaid; and shall also forfeit a sum of money equal to double the value of the interest which he may have had in the slaves, which at any time may have been transported or carried in such vessel, after the passing of this act, and against the form thereof.

SEC. 2. That it shall be unlawful for any citizen of the United States, or other person residing therein, to serve on board any vessel of the United States employed or made use of in the transportation or carrying of slaves from one foreign country or place to another; and any such citizen or other person, voluntarily serving as aforesaid, shall be liable to be indicted therefor, and on conviction thereof, shall be liable to a fine not exceeding two thousand dollars, and be imprisoned not exceeding two years.

SEC. 3. That if any citizen of the United States shall voluntarily serve on board of any foreign ship or vessel, which shall hereafter be employed

in the slave trade, he shall, on conviction thereof, be liable to and suffer the like forfeitures, pains, disabilities and penalties as he would have incurred, had such ship or vessel been owned or employed, in whole or in part, by any person or persons residing within the United States.

SEC. 4. That it shall be lawful for any of the commissioned vessels of the United States, to seize and take any vessel employed in carrying on trade, business, or traffic, contrary to the true intent and meaning of this or the said act to which this is an addition; and such vessel, together with her tackle, apparel and guns, and the goods or effects, other than slaves, which shall be found on board, shall be forfeited, and may be proceeded against in any of the district or circuit courts, and shall be condemned for the use of the officers and crew of the vessels making the seizure, and be divided in the proportion directed in the case of prize: And all persons interested in such vessel or in the enterprize or voyage in which such vessel shall be employed at the time of such capture, shall be precluded from all right or claim to the slaves found on board such vessel as aforesaid, and from all damages or retribution on account thereof: And it shall moreover be the duty of the commanders of such commissioned vessels to apprehend and take into custody every person found on board of such vessel so seized and taken, being of the officers or crew thereof, and him or them convey as soon as conveniently may be, to the civil authority of the United States in some one of the districts thereof, to be proceeded against in the due course of law.

SEC. 5. That the district and circuit courts of the United States shall have cognizance of all acts and offences against the prohibitions herein contained.

SEC. 6. *Provided, nevertheless,* That nothing in this act contained shall be construed to authorize the bringing into either of the United States, any person or persons, the importation of whom is, by the existing laws of such state, prohibited.

SEC. 7. That the forfeitures which shall hereafter be incurred under this, or the said act, to which this is in addition, not otherwise disposed of, shall accrue and be one moiety thereof to the use of the informer, and the other moiety to the use of the United States, except where the prosecution shall be first instituted on behalf of the United States, in which case the whole shall be to their use.

No. 17. *An act to prevent the importation of certain persons into certain states, where, by the laws thereof, their admission is prohibited.*

[Act of February 23, 1803.]

SEC. 1. *Be it enacted, &c.* That, from and after the first day of April next, no master or captain of any ship or vessel, or any other person, shall import or bring, or cause to be imported or brought, any negro, mulatto, or other person of colour, not being a native, a citizen, or registered seaman of the United States, or seamen, natives of countries beyond the Cape of

Good Hope, into any port or place of the United States, which port or place shall be situated in any state which by law has prohibited or shall prohibit the admission or importation of such negro, mulatto, or other person of colour; and if any captain or master aforesaid, or any other person, shall import or bring, or cause to be imported or brought into any of the ports or places aforesaid, any of the persons whose admission or importation is prohibited, as aforesaid, he shall forfeit and pay the sum of one thousand dollars for each and every negro, mulatto, or other person of colour aforesaid brought or imported as aforesaid, to be sued for and recovered by action of debt, in any court of the United States; one half thereof to the use of the United States, the other half to any person or persons prosecuting for the penalty; and in any action instituted for the recovery of the penalty aforesaid, the person or persons sued may be held to special bail: *Provided always*, That nothing contained in this act shall be construed to prohibit the admission of Indians.

SEC. 2. That no ship or vessel arriving in any of the said ports or places of the United States, and having on board any negro, mulatto, or other person of colour, not being a native, a citizen, or registered seaman of the United States, or seamen natives of countries beyond the Cape of Good Hope as aforesaid, shall be admitted to an entry. And if any such negro, mulatto, or other person of colour, shall be landed from on board any ship or vessel, in any of the ports or places aforesaid, or on the coast of any state prohibiting the admission or importation, as aforesaid, the ship or vessel, together with her tackle, apparel, and furniture, shall be forfeited to the United States, and one half of the nett proceeds of the sales on such forfeiture shall inure and be paid over to such person or persons on whose information the seizure on such forfeiture shall be made.

SEC. 3. That it shall be the duty of the collectors and other officers of the customs, and all other officers of the revenue of the United States, in the several ports or places situated as aforesaid, to notice and be governed by the provisions of the laws now existing, of the several states prohibiting the admission or importation of any negro, mulatto, or other person of colour, as aforesaid. And they are hereby enjoined vigilantly to carry into effect the said laws of said states, conformably to the provisions of this act; any law of the United States to the contrary notwithstanding.

No. 18.—*An act to prohibit the importation of Slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight.*

[Act of March 2, 1807.]

SEC. 1. *Be it enacted, &c.* That from and after the first day of January, one thousand eight hundred and eight, it shall not be lawful to import or bring into the United States, or the territories thereof, from any foreign kingdom, place, or country, any negro, mulatto, or person of colour,

with intent to hold, sell, or dispose of such negro, mulatto, or person of colour, as a slave, or to be held to service or labour.

SEC. 2. That no citizen or citizens of the United States, or any other person, shall, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight, for himself, or themselves, or any other person whatsoever, either as master, factor, or owner, build, fit, equip, load, or otherwise prepare any ship or vessel, in any port or place within the jurisdiction of the United States, nor shall cause any ship or vessel to sail from any port or place within the same, for the purpose of procuring any negro, mulatto, or person of colour, from any foreign kingdom, place, or country, to be transported to any port or place whatsoever, within the jurisdiction of the United States, to be held, sold, or disposed of as slaves, or to be held to service or labour: and if any ship or vessel shall be so fitted out for the purpose aforesaid, or shall be caused to sail so as aforesaid, every such ship or vessel, her tackle, apparel, and furniture, shall be forfeited to the United States, and shall be liable to be seized, prosecuted, and condemned in any of the circuit courts, or district courts, for the district where the said ship or vessel may be found or seized.

SEC. 3. That all and every person so building, fitting out, equipping, loading, or otherwise preparing, or sending away, any ship or vessel, knowing or intending that the same shall be employed in such trade or business, from and after the first day of January, one thousand eight hundred and eight, contrary to the true intent and meaning of this act, or any ways aiding or abetting therein, shall severally forfeit and pay twenty thousand dollars; one moiety thereof to the use of the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect.

SEC. 4. If any citizen or citizens of the United States, or any person resident within the jurisdiction of the same, shall, from and after the first day of January, one thousand eight hundred and eight, take on board, receive, or transport, from any of the coasts of the kingdoms of Africa, or from any other foreign kingdom, place, or country, any negro, mulatto, or person of colour, in any ship or vessel, for the purpose of selling them in any port or place within the jurisdiction of the United States as slaves, or to be held to service or labour, or shall be in any ways aiding or abetting therein, such citizen or citizens, or person, shall severally forfeit and pay five thousand dollars; one moiety thereof to the use of any person or persons who shall sue for and prosecute the same to effect. And every such ship or vessel in which such negro, mulatto, or person of colour, shall have been taken on board, received, or transported, as aforesaid, her tackle, apparel, and furniture, and the goods and effects which shall be found on board the same, shall be forfeited to the United States, and shall be liable to be seized, prosecuted, and condemned, in any of the circuit courts or dis-

strict courts in the district where the said ship or vessel may be found or seized. And neither the importer, nor any person or persons claiming from or under him, shall hold any right or title whatsoever to any negro, mulatto, or person of colour, nor to the service or labour thereof, who may be imported or brought within the United States, or territories thereof, in violation of this law, but the same shall remain subject to any regulations not contravening the provisions of this act, which the legislatures of the several states or territories at any time hereafter may make, for disposing of any such negro, mulatto, or person of colour.

SEC. 5. That if any citizen or citizens of the United States, or any other person resident within the jurisdiction of the same, shall, from and after the first day of January, one thousand eight hundred and eight, contrary to the true intent and meaning of this act, take on board any ship or vessel from any of the coasts or kingdoms of Africa, or from any other foreign kingdom, place, or country, any negro, mulatto, or person of colour, with intent to sell him, her, or them, for a slave, or slaves, or hold to service or labour, and shall transport the same to any port or place within the jurisdiction of the United States, and there sell such negro, mulatto, or person of colour, so transported as aforesaid, for a slave, or to be held in service or labour, every such offender, shall be deemed guilty of a high misdemeanor, and being thereof convicted, before any court having competent jurisdiction, shall suffer imprisonment for not more than ten years, nor less than five years, and be fined not exceeding ten thousand dollars, nor less than one thousand dollars.

SEC. 6. That if any person or persons whatsoever shall, from and after the first day of January, one thousand eight hundred and eight, purchase or sell any negro, mulatto, or person of colour, for a slave, or be held to service or labour, who shall have been imported, or brought from any foreign kingdom, place, or country, or from the dominions of any foreign state immediately adjoining to the United States, into any port or place within the jurisdiction of the United States, after the last day of December, one thousand eight hundred and seven, knowing at the time of such purchase or sale, such negro, mulatto, or person of colour, was so brought within the jurisdiction of the United States, as aforesaid, such purchaser and seller shall severally forfeit and pay for every negro, mulatto, or person of colour, so purchased or sold as aforesaid, eight hundred dollars; one moiety thereof to the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect: *Provided*, That the aforesaid forfeiture shall not extend to the seller or purchaser of any negro, mulatto, or person of colour, who may be sold or disposed of in virtue of any regulation which may hereafter be made by any of the legislatures of the several states in that respect, in pursuance of this act, and the constitution of the United States.

SEC. 7. That if any ship or vessel shall be found, from and after the first day of January one thousand eight hundred and eight, in any river, port, bay, or harbour, or on the high seas, within the jurisdictional limits of the United States, or hovering on the coast thereof having on board any negro, mulatto, or person of colour, for the purpose of selling them as slaves, or with intent to land the same, in any port or place within the jurisdiction of the United States, contrary to the prohibition of this act, every such ship or vessel, together with her tackle, apparel, and furniture, and the goods or effects which shall be found on board the same, shall be forfeited to the use of the United States, and may be seized, prosecuted and condemned, in any court of the United States, having jurisdiction thereof. And it shall be lawful for the President of the United States, and he is hereby authorized, should he deem it expedient, to cause any of the armed vessels of the United States to be manned and employed to cruise on any part of the coast of the United States or territories thereof, where he may judge attempts will be made to violate the provisions of this act, and to instruct and direct the commanders of armed vessels of the United States, to seize, take, and bring into any port of the United States, all such ships or vessels; and moreover to seize, take, and bring into any port of the United States, all ships or vessels of the United States, where-soever found on the high seas, contravening the provisions of this act, to be proceeded against according to law; and the captain, master, or commander of every such ship or vessel, so found and seized as aforesaid, shall be deemed guilty of a high misdemeanor, and shall be liable to be prosecuted before any court of the United States, having jurisdiction thereof; and being thereof convicted, shall be fined not exceeding ten thousand dollars, and be imprisoned not less than two years, and not exceeding four years. And the proceeds of all ships and vessels, their tackle, apparel, and furniture, and the goods and effects on board of them, which shall be so seized, prosecuted, and condemned, shall be divided equally between the United States and the officers and men who shall make such seizure, take, or bring the same into port for condemnation, whether such seizure be made by an armed vessel of the United States, or revenue cutters thereof, and the same shall be distributed in like manner as is provided by law for the distribution of prizes taken from an enemy: *Provided*, That the officers and men, to be entitled to one half of the proceeds aforesaid, shall safe keep every negro, mulatto, or person of colour, found on board of any ship or vessel, so by them seized, taken, or brought into port for condemnation, and shall deliver every such negro, mulatto, or person of colour, to such person or persons as shall be appointed by the respective states to receive the same; and if no such person or persons shall be appointed by the respective states, they shall deliver every such negro, mulatto, or person of colour, to the overseers of the poor of the port or place

where such ship or vessel may be brought and found, and shall immediately transmit to the governor, or chief magistrate of the state, an account of their proceedings, together with the number of such negroes, mulattoes, or persons of colour, and a descriptive list of the same, that he may give directions respecting such negroes, mulattoes, or persons of colour.

SEC. 8. That no captain, master, or commander of any ship or vessel, of less burthen than forty tons, shall, from and after the first day of January, one thousand eight hundred and eight, take on board and transport any negro, mulatto, or person of colour, to any port or place whatsoever, for the purpose of selling or disposing of the same as a slave, or with intent that the same may be sold or disposed of to be held to service or labour, on penalty of forfeiting for every such negro, mulatto, or person of colour, so taken on board and transported as aforesaid, the sum of eight hundred dollars; one moiety thereof to the use of the United States, and the other moiety to any person, or persons, who shall sue for and prosecute the same to effect: *Provided, however,* That nothing in this section shall extend to prohibit the taking on board or transporting on any river, or inland bay of the sea, within the jurisdiction of the United States, any negro, mulatto, or person of colour, (not imported contrary to the provisions of this act,) in any vessel or species of craft whatever.

SEC. 9. That the captain, master, or commander of any ship or vessel of the burthen of forty tons or more, from and after the first day of January, one thousand eight hundred and eight, sailing coastwise from any port in the United States, to any port or place within the jurisdiction of the same, having on board any negro, mulatto, or person of colour, for the purpose of transporting them to be sold or disposed of as slaves, or to be held to service or labour, shall, previous to the departure of such ship or vessel, make out and subscribe duplicate manifests of every such negro, mulatto, or person of colour, on board such ship or vessel, therein specifying the name and sex of each person, their age and stature, as near as may be, and the class to which they respectively belong, whether negro, mulatto, or person of colour, with the name and place of residence of every owner, or shipper of the same, and shall deliver such manifests to the collector of the port, if there be one, otherwise to the surveyor, before whom the captain, master or commander, together with the owner, or shipper, shall severally swear or affirm, to the best of their knowledge and belief, that the persons therein specified were not imported or brought into the United States from and after the first day of January, one thousand eight hundred and eight; and that, under the laws of the state, they are held to service or labour; whereupon the said collector, or surveyor, shall certify the same on the said manifests, one of which he shall return to the said captain, master, or commander, with a permit, specifying thereon the number, names, and general description of such persons, and authorising him to proceed to the port of his dea-

tion. And if any ship or vessel, being laden and destined as aforesaid, shall depart from the port where she may then be, without the captain, master, or commander having first made out and subscribed duplicate manifests, of every negro, mulatto, and person of colour, on board such ship or vessel, as aforesaid, and without having previously delivered the same to the said collector and surveyor, and obtained a permit, in manner as herein required, or shall, previous to her arrival at the port of destination, take on board any negro, mulatto, or person of colour, other than those specified in the manifests, as aforesaid, every such ship or vessel, together with her tackle, apparel, and furniture, shall be forfeited to the use of the United States, and may be seized, prosecuted, and condemned, in any court of the U. States having jurisdiction thereof; and the captain, master, or commander, of every such ship or vessel, shall moreover forfeit, for every such negro, mulatto, or person of colour, so transported, or taken on board, contrary to the provisions of this act, the sum of one thousand dollars; one moiety thereof to the United States, and the other moiety to the use of any person or persons, who shall sue for and prosecute the same to effect.

SEC. 10. That the captain, master, or commander, of every ship or vessel, of the burthen of forty tons or more, from and after the first day of January, one thousand eight hundred and eight, sailing coastwise, and having on board any negro, mulatto, or person of colour, to sell or dispose of as slaves, or to be held to service or labour, and arriving in any port within the jurisdiction of the United States, from any other port within the same, shall, previous to the unlading or putting on shore any of the persons aforesaid, or suffering them to go on shore, deliver to the collector, if there be one, or, if not, to the surveyor residing at the port of her arrival, the manifest certified by the collector or surveyor of the port from whence she sailed, as is herein before directed; to the truth of which, before such officer, he shall swear or affirm; and if the collector or surveyor shall be satisfied therewith, he shall thereupon grant a permit for unlading, or suffering such negro, mulatto, or person of colour to be put on shore; and if the captain, master, or commander, of any such ship or vessel, being laden as aforesaid, shall neglect or refuse to deliver the manifest at the time and in the manner herein directed, or shall land or put on shore any negro, mulatto, or person of colour, for the purpose aforesaid, before he shall have delivered his manifest, as aforesaid, and obtained a permit for that purpose, every such captain, master, or commander, shall forfeit and pay ten thousand dollars; one moiety thereof to the United States, the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect.

No. 19. *An act in addition to "An act to prohibit the introduction [importation] of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord, one thousand eight hundred and eight," and to repeal certain parts of the same.*

[Act of April 20, 1818.]

SEC. 1. *Be it enacted, &c.* That, from and after the passing of this act, it shall not be lawful to import or bring, in any manner whatsoever, into the United States, or territories thereof, from any foreign kingdom, place, or country, any negro, mulatto, or person of colour, with intent to hold, sell, or dispose of, any such negro, mulatto, or person of colour, as a slave, or to be held to service or labour; and any ship, vessel, or other water craft, employed in any importation as aforesaid, shall be liable to seizure, prosecution, and forfeiture, in any district in which it may be found; one half thereof to the use of the United States, and the other half to him or them who shall prosecute the same to effect.

SEC. 2. That no citizen or citizens of the U. States, or any other person or persons, shall, after the passing of this act, as aforesaid, for himself, themselves, or any other person or persons whatsoever, either as master, factor, or owner, build, fit, equip, load, or otherwise prepare, any ship or vessel, in any port or place within the jurisdiction of the United States, nor cause any such ship or vessel to sail from any port or place whatsoever, within the jurisdiction of the same, for the purpose of procuring any negro, mulatto, or person of colour, from any foreign kingdom, place, or country, to be transported to any port or place whatsoever, to be held, sold, or otherwise disposed of as slaves, or to be held to service or labour; and if any ship or vessel shall be so built, fitted out, equipped, laden, or otherwise prepared for the purpose aforesaid, every such ship or vessel, her tackle, apparel, furniture, and lading, shall be forfeited, one moiety to the use of the United States, and the other to the use of the person or persons who shall sue for said forfeiture, and prosecute the same to effect; and such ship or vessel shall be liable to be seized prosecuted and condemned, in any court of the United States, having competent jurisdiction.

SEC. 3. That every person or persons so bulding, fitting out, equipping, loading, or otherwise preparing, or sending away, or causing any of the acts aforesaid to be done, with intent to employ such ship or vessel in such trade or business, after the passing of this act, contrary to the true intent and meaning thereof, or who shall, in any wise, be aiding or abetting therein, shall, severally, on conviction thereof, by due course of law, forfeit and pay a sum not exceeding five thousand dollars, nor less than one thousand dollars, one moiety to the United States, and the other to the use of the person or persons, who shall sue for such forfeiture, and prosecute the same with effect, and shall moreover be imprisoned for a term not exceeding seven years, nor less than three years.

SEC. 4. That if any citizen or citizens of the United States, or other person or persons resident within the jurisdiction of the same, shall, from and after the passing of this act, take on board, receive, or transport, from any of the coasts or kingdoms of Africa, or from any other foreign kingdom, place or country, or from sea, any negro, mulatto, or person of colour, not being an inhabitant, nor held to service by the laws of either of the states or territories of the United States, in any ship, vessel, boat, or other water craft, for the purpose of holding, selling, or otherwise disposing of, such person as a slave, or to be held to service or labour, or be aiding or abetting therein, every such person or persons, so offending, shall, on conviction, by due course of law, severally forfeit and pay a sum not exceeding five thousand, nor less than one thousand dollars, one moiety to the use of the United States, and the other to the person or persons who shall sue for such forfeiture and prosecute the same to effect; and, moreover, shall suffer imprisonment, for a term not exceeding seven years nor less than three years, and every ship or vessel, boat, or other water craft, on which such negro, mulatto, or person of colour, shall have been taken on board, received or transported, as aforesaid, her tackle, apparel, and furniture; and the goods and effects which shall be found on board the same, or shall have been imported therein in the same voyage, shall be forfeited, one moiety to the use of the United States, and the other to the use of the person or persons who shall sue for and prosecute the same to effect; and every such ship or vessel shall be liable to be seized, prosecuted, and condemned, in any court of the United States having competent jurisdiction.

SEC. 5. That neither the importer or importers, nor any person or persons claiming from or under him or them, shall hold any right, interest, or title whatsoever, in or to any negro, mulatto, or person of colour, nor to the service or labour thereof, who may be imported or brought into the United States or the territories thereof in violation of the provisions of this act, but the same shall remain subject to any regulations, not contravening said provisions, which the legislatures of the several states or territories, may at any time heretofore have made, or hereafter may make, for disposing of any such negro, mulatto, or person of colour.

SEC. 6. That if any person or persons whatsoever shall, from and after the passing of this act, bring within the jurisdiction of the United States, in any manner whatsoever, any negro, mulatto, or person of colour, from any foreign kingdom, place, or country, or from sea, or shall hold, sell or otherwise dispose of, any such negro, mulatto, or person of colour, so brought in as a slave, or to be held to service or labour, or be in any wise aiding or abetting therein, every person so offending shall, on conviction thereof by due course of law, forfeit and pay, for every such offence, a sum not exceeding ten thousand nor less than one thousand dollars, one moiety to the use of the United States, and the other to the use of the person or persons who shall sue

for such forfeiture, and prosecute the same to effect; and, moreover, shall suffer imprisonment, for a term not exceeding seven years, nor less than three years.

SEC. 7. That, if any person or persons whatsoever shall hold, purchase, sell, or otherwise dispose of, any negro mulatto, or person of colour, for a slave, or to be held to service or labour, who shall have been imported or brought, in any way, from any foreign kingdom, place, or country, or from the dominions of any foreign state immediately adjoining to the United States, into any port or place within the jurisdiction of the United States, from and after the passing of this act, every person so offending, and every person aiding or abetting therein, shall severally forfeit and pay, for every negro, mulatto, or person of colour, so held, purchased, sold, or disposed of, one thousand dollars, one moiety to the use of the United States, and the other to the use of the person or persons who may sue for such forfeiture, and prosecute the same to effect, and to stand committed until the said forfeiture be paid: *Provided*, That the aforesaid forfeiture shall not extend to the seller or purchaser of any negro, mulatto, or person of colour, who may be sold or disposed of in virtue of any regulations which have been heretofore, or shall hereafter be, lawfully made by any legislature of any state or territory in pursuance of this act and the constitution of the United States.

SEC. 8. That in all prosecutions under this act, the defendant or defendants shall be holden to prove that the negro, mulatto, or persons of colour, which he or they shall be charged with having brought into the United States, or with purchasing, holding, selling, or otherwise disposing of, and which, according to the evidence in such case, the said defendant or defendants shall have brought in aforesaid, or otherwise disposed of, was brought into the United States at least five years previous to the commencement of such prosecution, or was not brought in, holden, purchased, or otherwise disposed of, contrary to the provisions of this act; and in failure thereof, the said defendant or defendants shall be judged guilty of the offence of which he or they may stand accused.

SEC. 9. That any prosecution, information, or action, may be sustained, for any offence under this act, at any time within five years after such offence shall have been committed, any law to the contrary notwithstanding.

SEC. 10. That the first six sections of the act to which this is an addition, shall be and the same are hereby repealed: *Provided*, That all offences committed under the said sections of the act aforesaid, before the passing of this act, shall be prosecuted and punished, and any forfeiture which have been incurred under the same shall be recovered and distributed, as if this act had not been passed.

No. 20.—*An act in addition to the acts prohibiting the slave trade.*

[Act of March 3, 1819.]

SEC. 1. *Be it enacted*, That the president of the United States be, and he is hereby, authorized, whenever he shall deem it expedient, to cause any

of the armed vessels of the United States to be employed to cruize on any of the coasts of the United States, or territories thereof, or on the coast of Africa, or elsewhere, where he may judge attempts may be made to carry on the slave trade by citizens or residents of the United States, in contravention of the acts of congress prohibiting the same, and to instruct and direct the commanders of all armed vessels of the United States, to seize, take, and bring into any port of the United States, all ships or vessels of the United States, wheresoever found, which may have taken on board, or which may be intended for the purpose of taking on board, or of transporting, or may have transported, any negro, mulatto, or person of colour, in violation of any of the provisions of the act, entitled "An act in addition to an act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight, and to repeal certain parts of the same:" or of any other act or acts prohibiting the traffic in slaves, to be proceeded against according to law: And the proceeds of all ships and vessels, their tackle, apparel, and furniture, and the goods and effects on board of them, which shall be so seized, prosecuted, and condemned, shall be divided equally between the United States and the officers and men who shall seize, take, or bring, the same into port for condemnation, whether such seizure be made by an armed vessel of the United States or revenue cutter thereof: And the same shall be distributed in like manner as is provided by law for the distribution of prizes taken from an enemy. *Provided*, That the officers and men, to be entitled to one-half of the proceeds aforesaid shall safe keep every negro, mulatto, or person of colour, found on board of any ship or vessel so seized, taken, or brought into port, for condemnation, and shall deliver every such negro, mulatto, or person of colour, to the marshal of the district into which they are brought, if into a port of the United States, or, if elsewhere, to such person or persons as shall be lawfully appointed by the president of the United States, in the manner hereinafter directed, transmitting to the president of the United States, as soon as may be, after such delivery, a descriptive list of such negroes, mulattoes, or persons of colour, that he may give directions for the disposal of them. *And provided further*, That the commanders of such commissioned vessels do cause to be apprehended, and taken into custody, every person found on board of such vessel, so seized and taken, being of the officers or crew thereof, and him or them convey, as soon as conveniently may be, to the civil authority of the United States, to be proceeded against, in due course of law, in some of the districts thereof.

Sec. 2. That the president of the United States be, and he is hereby authorized to make such regulations and arrangements as he may deem expedient, for the safe-keeping, support, and removal beyond the limits of the United States, of all such negroes, mulattoes, or persons of colour, as may be so delivered and brought within their jurisdiction; and to appoint a

proper person or persons, residing upon the coast of Africa, as agent or agents for receiving the negroes, mulattoes, or persons of colour, delivered from on board vessels, seized in the prosecution of the slave trade, by commanders of the United States' armed vessels.

SEC. 3. That a bounty of twenty-five dollars be paid to the officers and crews of the commissioned vessels of the United States, or revenue cutters, for each and every negro, mulatto, or person of colour, who shall have been, as hereinbefore provided, delivered to the marshal or agent duly appointed to receive them: And the secretary of the treasury is hereby authorized and required to pay, or cause to be paid, to such officer and crews, or their agent, the aforesaid bounty, for each person delivered as aforesaid.

SEC. 4. That when any citizen, or other person, shall lodge information, with the attorney for the district of any state or territory, as the cause may be, that any negro, mulatto, or person of colour, has been imported therein, contrary to the provisions of the acts in such case made and provided, it shall be the duty of the said attorney forthwith to commence a prosecution, by information; and process shall issue against the person charged with holding such negro, negroes, mulatto, mulattoes, person or persons of colour, so alleged to be imported contrary to the provisions of the acts aforesaid: And if, upon the return of the process executed, it shall be ascertained, by the verdict of the jury, that such negro, negroes, mulatto, mulattoes, person, or persons of colour, have been brought in, contrary to the true intent of the meaning of the acts in such cases made and provided, then the court shall direct the marshal of the said district to take the said negroes, mulattoes, or persons of colour, into his custody, for safe keeping, subject to the orders of the president of the United States; and the informer or informers, who shall have lodged the information, shall be entitled to receive, over and above the portion of the penalties accruing to him or them by the provisions of the acts in such case made and provided, a bounty of fifty dollars, for each and every negro, mulatto, or person of colour, who shall have been delivered into the custody of the marshal; and the secretary of the treasury is hereby authorized and required to pay, or cause to be paid, the aforesaid bounty, upon the certificate of the clerk of the court for the district where the prosecution may have been had, with the seal of office thereto annexed, stating the number of negroes, mulattoes, or persons of colour, so delivered.

SEC. 5. That it shall be the duty of the commander of any armed vessel of the United States, whenever he shall make any capture under the provisions of this act, to bring the vessel and her cargo, for adjudication, into some of the ports of the state or territory to which such vessel, so captured, shall belong, if he can ascertain the same; if not, then to be sent into any convenient port of the United States.

SEC. 6. That all such acts, or parts of acts, as may be repugnant to the provisions of this act, shall be, and the same are hereby, repealed.

SEC. 7. That a sum, not exceeding one hundred thousand dollars, be, and the same is hereby, appropriated to carry this law into effect.

No. 21.—*An act making an appropriation for the suppression of the slave trade.*

[Act of May 24, 1828.]

SEC. 1. *Be it enacted*, That the sum of thirty thousand dollars be, and the same is hereby appropriated, to be paid out of any money in the treasury not otherwise appropriated, for the suppression of the slave trade, pursuant to the act of congress of the third day of March, one thousand eight hundred and nineteen.

No. 22.—*An act more effectually to provide for the punishment of certain crimes against the United States and for other purposes.*

[Act of March 3, 1825.]

SEC. 1. *Be it enacted*, That, if any person or persons, upon the high seas, or in any arm of the sea, or in any river, haven, creek, basin, or bay, within the admiralty and maritime jurisdiction of the United States, and out of the jurisdiction of any particular state, shall commit the crime of wilful murder, or rape, or shall, wilfully and maliciously, strike, stab, wound, poison, or shoot at, any other person, of which striking, stabbing, wounding, poisoning, or shooting, such person shall afterwards die, upon land, within or without the United States, every person so offending, his or her counsellors, aiders, or abettors, shall be deemed guilty of felony, and shall, upon conviction thereof, suffer death.

SEC. 5. That, if any offence shall be committed on board of any ship or vessel, belonging to any citizen or citizens of the United States, while lying in a port or place within the jurisdiction of any foreign state or sovereign, by any person belonging to the company of said ship, or any passenger, or any other person belonging to the company of said ship, or any other passenger, the same offence shall be cognizable and punishable by the proper circuit court of the United States, in the same way and manner, and under the same circumstances, as if said offence had been committed on board of such ship or vessel on the high seas, and without the jurisdiction of such foreign sovereign or state: *Provided, always*, That, if such offender shall be tried for such offence, and acquitted or convicted thereof, in any competent court of such foreign state or sovereign, he shall not be subject to another trial in any court of the United States.

SEC. 6. That, if any person or persons, upon the high seas, or in any arm of the sea, or in any river, haven, creek, basin, or bay, within the admiralty and maritime jurisdiction of the United States, and out of the jurisdiction of any particular state, shall, by surprise, or by open force or violence, maliciously attack, or set upon, any ship or vessel belonging in whole or part, to the United States, or to any citizen or citizens thereof,

or to any other person whatsoever, with an intent unlawfully to plunder the same ship or vessel, or to despoil any owner or owners thereof of any moneys, goods, or merchandize, laden on board thereof, every person so offending, his or her counsellors, aiders, or abettors, shall be deemed guilty of felony; and shall, on conviction thereof, be punished by fine, not exceeding five thousand dollars, and by imprisonment and confinement to hard labour, not exceeding ten years, according to the aggravation of the offence.

SEC. 7. If any person or persons, upon the high seas, or in any other of the places aforesaid, with intent to kill, rob, steal, commit rape, or to do or perpetrate any other felony, shall break or enter any ship or vessel, boat, or raft; or if any person or persons shall, wilfully and maliciously, cut, spoil, or destroy, any cordage, cable, buoys, buoy-rope, headfast, or other fast, fixed to any anchor or moorings, belonging to any ship, vessel, boat, or raft, every person so offending, his or her counsellors, aiders and abettors, shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine, not exceeding one thousand dollars, and by imprisonment and confinement to hard labour, not exceeding five years, according to the aggravation of the offence.

SEC. 8. If any person or persons, upon the high seas, or in any of the places aforesaid, shall buy, receive, or conceal, or aid in concealing any money, goods, bank notes, or other effects or things which may be the subject of larceny, which have been feloniously taken or stolen, from any other person, knowing the same to have been taken or stolen, every person, so offending, shall be deemed guilty of a misdemeanor, and may be prosecuted therefor, although the principal offender chargeable, or charged with the larceny, shall not have been prosecuted or convicted thereof; and shall, on conviction thereof, be punished by fine, not exceeding one thousand dollars, and imprisonment and confinement to hard labour, not exceeding three years, according to the aggravation of the offence.

SEC. 9. If any person or persons shall plunder, steal, or destroy, any money, goods, merchandize, or other effects, from or belonging to any ship or vessel, or boat, or raft, which shall be in distress, or which shall be wrecked, lost, stranded, or cast away, upon the sea, or upon any reef, shoal, bank, or rocks of the sea, or in any other place within the admiralty and maritime jurisdiction of the United States, or if any person or persons shall wilfully obstruct the escape of any person endeavouring to save his or her life from such ship, or vessel, boat, or raft, or the wreck thereof, or if any person or persons shall hold out or show any false light, or lights, or extinguish any true light, with intention to bring any ship or vessel, boat, or raft, being or sailing upon the sea, into danger, or distress, or shipwreck, every person, so offending, his or her counsellors, aiders, and abettors, shall be deemed guilty of felony, and shall, on conviction thereof, be punished by

fine, not exceeding five thousand dollars, and imprisonment and confinement to hard labor, not exceeding ten years, according to the aggravation of the offence.

SEC. 10. If any master or commander of any ship or vessel, belonging, in whole, or in part, to any citizen or citizens of the United States, shall, during his being abroad, maliciously, and without justifiable cause, force any officer, or mariner, of such ship or vessel, on shore, leave him behind, in any foreign port or place, or refuse to bring home again all such of the officers and mariners, of such ship or vessel, whom he carried out with him, as are in a condition to return, and willing to return, when he shall be ready to proceed on his homeward voyage, every master or commander, so offending, shall, on conviction thereof, be punished by fine, not exceeding five hundred dollars, or by imprisonment, not exceeding six months, according to the aggravation of the offence.

SEC. 11. If any person or persons, shall, wilfully and maliciously, set on fire, or burn, or otherwise destroy, or cause to be set on fire, or burnt, or otherwise destroyed, or aid, procure, abet, or assist in setting on fire, or burning or otherwise destroying, any ship or vessel of war of the United States, afloat on the high seas, or in any arm of the sea, or in any river, haven, creek, basin, or bay, within the admiralty jurisdiction of the United States, and out of the jurisdiction of any particular state, every person, so offending, shall be deemed guilty of felony, and shall, on conviction thereof, suffer death: *Provided*, That nothing herein contained shall be construed to take away or impair the right of any court martial to punish any offence, which, by the laws of the United States, may be punishable by such court.

SEC. 12. If any officer of the United States shall be guilty of extortion, under or by colour of his office, every person so offending shall, on conviction thereof, be punished by fine, not exceeding five hundred dollars, or by imprisonment, not exceeding one year, according to the aggravation of the offence.

SEC. 13. If any person, in any case, matter, hearing, or other proceeding, when an oath or affirmation shall be required to be taken or administered under or by any law or laws of the United States, shall, upon the taking of such oath or affirmation, knowingly and wilfully swear or affirm falsely, every person, so offending, shall be deemed guilty of perjury, and shall, on conviction thereof, be punished by fine, not exceeding two thousand dollars, and by imprisonment and confinement to hard labour, not exceeding five years, according to the aggravation of the offence. And if any person or persons shall knowingly or willingly procure any such perjury to be committed, every person so offending, shall be deemed guilty of subornation of perjury, and shall, on conviction thereof, be punished by fine, not exceeding two thousand dollars, and by imprisonment and confinement to

hard labour, not exceeding five years, according to the aggravation of the offence.

SEC. 14. And the trial of all offences which shall be committed upon the high seas, or elsewhere, out of the limits of any state or district, shall be in the district where the offender is apprehended, or into which he may be first brought.

SEC. 22. That, if any person or persons, upon the high seas, or in any arm of the sea, or in any river, haven, creek, basin, or bay, within the admiralty jurisdiction of the United States, and out of the jurisdiction of any particular state, on board any vessel belonging in whole or in part to the United States, or any citizen or citizens thereof, shall, with a dangerous weapon, or with intent to kill, rob, steal, or to commit a mayhem, or rape, or to perpetrate any other felony, commit an assault, on another, such person shall, on conviction thereof, be punished by fine, not exceeding three thousand dollars, and by imprisonment and confinement to hard labour, not exceeding three years, according to the aggravation of the offence.

SEC. 23. That, if any person or persons shall, on the high seas, or within the United States, wilfully and corruptly conspire, combine, and confederate, with any other person or persons, such other person or persons being either within or without the United States, to cast away, burn, or otherwise destroy, any ship or vessel, or to procure the same to be done, with intent to injure any person, or body politic, that hath underwritten, or shall thereafter underwrite, any policy of insurance thereon, or on goods on board thereof, or with intent to injure any person, or body politic, that hath lent or advanced, or thereafter shall lend or advance, any money on such vessel, on bottomry or respondentia, or shall, within the United States, build or fit out, or aid in building or fitting out, any ship or vessel, with intent that the same shall be cast away, burnt, or destroyed, for the purpose or with the design aforesaid, every person so offending, shall, on conviction thereof, be deemed guilty of felony, and shall be punished by fine, not exceeding ten thousand dollars, and by imprisonment, and confinement to hard labor, not exceeding ten years.

No. 23.— *An act to continue in force "An act to protect the commerce of the United States and punish the crime of piracy," and also to make further provision for punishing the crime of piracy.*

[Act of May 15, 1820.]

SEC. 1. *Be it enacted, &c.* That the first second third and fourth, sections of an act entitled "An act to protect the commerce of the United States and punish the crime of piracy," passed on the third day of March one thousand eight hundred and nineteen, be, and the same are hereby, continued in force from the passing of this act for the term of two years, and from thence to the end of the next session of Congress and no longer.

SEC. 2. That the fifth section of the said act be, and the same is here-

by, continued in force, as to all crimes made punishable by the same, and heretofore committed, in all respects as fully as if the duration of the said section had been without limitation.

SEC. 3. That if any person shall, upon the high seas, or in any open roadstead, or in any haven, basin, or bay, or in any river where the sea ebbs and flows, commit the crime of robbery, in or upon any ship or vessel, or upon any of the ship's company, of any ship or vessel, or the lading thereof, such person shall be adjudged to be a pirate; and, being thereof convicted, before the Circuit Court of the United States for the district into which he shall be brought or in which he shall be found, shall suffer death. And if any person engaged in any piratical cruize or enterprise, or being of the crew or ship's company of any piratical ship or vessel, shall land from such ship or vessel, and on shore, shall commit robbery, such person shall be adjudged a pirate; and, on conviction thereof, before the Circuit Court of the United States for the district into which he shall be brought, or in which he shall be found, shall suffer death: *Provided*, That nothing in this section contained shall be construed to deprive any particular State of its jurisdiction over such offences, when committed within the body of a county, or authorize the courts of the United States to try any such offenders, after conviction or acquittance, for the same offence in a state court.

SEC. 4. That if any citizen of the United States, being of the crew or ship's company of any foreign ship or vessel engaged in the slave trade, or any person whatever, being of the crew or ship's company of any ship or vessel, owned in the whole or part, or navigated for, or in behalf of, any citizen or citizens of the United States, shall land from any such ship or vessel, and, on any foreign shore, seize any negro or mulatto, not held to service or labour by the laws of either of the states or territories of the United States, with intent to make such negro or mulatto a slave, or shall decoy, or forcibly bring or carry, or shall receive, such negro or mulatto on board any such ship or vessel, with intent as aforesaid, such citizen or person shall be adjudged a pirate; and, on conviction thereof, before the Circuit Court of the United States for the district wherein he may be brought or found, shall suffer death.

SEC. 5. That if any citizen of the United States, being of the crew or ship's company of any foreign ship or vessel engaged in the slave trade, or any person whatever, being of the crew or ship's company of any ship or vessel, owned wholly or in part, or navigated for, or in behalf of, any citizen or citizens of the United States, shall forcibly confine or detain, or aid and abet in forcibly confining or detaining, on board such ship or vessel, any negro or mulatto not held to service by the laws of either of the states or territories of the United States, with intent to make such negro or mulatto a slave, or shall, on board any such ship or vessel, offer or attempt to sell, as a slave, any negro or mulatto not held to service as aforesaid, or shall on the high seas,

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or any where on tide water, transfer or deliver over, to any other ship or vessel, any negro or mulatto, not held to service as aforesaid, with intent to make such negro or mulatto a slave, or shall land, or deliver on shore, from on board any such ship or vessel, any such negro or mulatto, with intent to make sale of, or having previously sold, such negro or mulatto, as a slave, such citizen or person shall be adjudged a pirate; and, on conviction thereof, before the Circuit Court of the United States for the district wherein he shall be brought or found, shall suffer death.

No. 24.—An act concerning discriminating duties of tonnage and impost.

[Act of January 7, 1824.]

SEC. 1. *Be it enacted &c.* That, from and after the first day of January, one thousand eight hundred and twenty-four, during the continuance of this act, and under the limitations hereinafter mentioned, so much of the several acts imposing duties on the tonnage of vessels in the ports of the United States, as imposes a discriminating duty between foreign vessels and vessels of the United States, is hereby suspended, so far as respects vessels truly and wholly belonging to subjects or citizens of the *Kingdom of the Netherlands, of Prussia, of the imperial Hanseatic Cities of Hamburg, Lubeck and Bremen, of the Dukedom of Oldenburg, of the Kingdom of Norway, of the Kingdom of Sardinia, and of the Empire of Russia.*

SEC. 2. *And be it further enacted,* That so much of the several acts imposing duties on goods, wares and merchandize, imported into the United States, as imposes a discriminating duty between goods imported into the United States in foreign vessels, and in vessels of the United States, be, and the same is hereby, suspended, so far as the same respects the produce or manufactures of the territories in Europe, of any of the abovementioned nations, or such produce and manufactures as can only be, or most usually are, first shipped from a port or place in the said territories in Europe, or either of them, respectively, the same being imported in vessels truly and wholly belonging to the subjects or citizens of each of the said nations respectively, the vessels of each nation importing its own produce and manufactures as aforesaid.

SEC. 3. *And be it further enacted,* That the suspension of the discriminating duties of tonnage and impost, in the two preceding sections of this act prescribed, shall continue, in behalf of each of the above mentioned nations on condition that, and so long as the vessels of the United States, and truly and wholly belonging to the citizens thereof, and all goods and merchandize, of the produce and manufacture of the United States, laden therein, and imported into any of the ports of the said nations in Europe, respectively, shall be exempted from all and every discriminating duty of impost or tonnage, direct or indirect, whatsoever, other or higher than is levied upon the vessels and merchandize therein imported, belonging to the subjects of

citizens of each of the said nations, respectively. But if, in any of the territories in Europe, of either of the said nations, any such discriminating duty shall at any time, be imposed or levied on vessels wholly belonging to the citizens of the United States, or on the merchandize imported as aforesaid in them, then, and from that time, the said suspension herein prescribed shall cease, and determine, so far as respects the vessels and merchandize imported into the United States in them, of such nations: and all the provisions of the acts imposing discriminating foreign tonnage and impost duties in the United States, shall revive and be in full force, with regard to the said nation.

SEC. 4. *And be it further enacted*, That, upon satisfactory evidence being given to the President of the United States, by the government of any foreign nation, that no discriminating duties of tonnage or impost are imposed or levied within the ports of the said nation, upon vessels wholly belonging to citizens of the United States, or upon merchandize, the produce or manufacture thereof, imported in the same, the President is hereby authorized to issue his proclamation, declaring that the foreign discriminating duties of tonnage and impost within the United States, are and shall be suspended and discontinued, so far as respects the vessels of the said nation, and the merchandize of its produce or manufacture, imported into the United States in the same: the said suspension to take effect from the time of such notification being given to the President of the United States, and to continue so long as the reciprocal exemption of vessels, belonging to citizens of the United States, and merchandize as aforesaid, thereon laden, shall be continued, and no longer.

No. 25.—*Proclamation of the President, of the 7th June, 1827, declaring the discriminating duties on impost and tonnage, to be suspended so far as they relate to vessels, &c. of the subjects of the Pope.*

By the President of the United States.—Proclamation.

Whereas, by an act of congress of the United States, of the seventh of January, one thousand eight hundred and twenty-four, entitled "An act concerning discriminating duties of tonnage and impost," it is provided, that upon satisfactory evidence being given to the president of the United States, by the government of any foreign nation, that no discriminating duties of tonnage or impost are imposed or levied within the ports of the said nation, upon vessels wholly belonging to citizens of the United States, or upon merchandize, the produce or manufacture thereof, imported in the same, the president is thereby authorized to issue his proclamation, declaring that the foreign discriminating duties of tonnage and impost within the United States are, and shall be suspended and discontinued, so far as respects the vessels of the said nation, and the merchandize of its produce, or manufacture, imported into the United States, in the same: the said suspension to take effect from the time of such notification being given to the

president of the United States, and to continue so long as the reciprocal exemption of vessels belonging to citizens of the United States, and merchandize, as aforesaid, therein laden, shall be continued, and no longer.

And whereas satisfactory evidence was given to the president of the United States, on the 30th day of May last, by count Lucchesi, consul general of his holiness the Pope, that all foreign and discriminating duties of tonnage and impost within the dominions of his holiness, so far as respected the vessels of the United States, and the merchandize of their produce or manufacture, imported in the same, were suspended and discontinued.

Now, therefore, I, John Quincy Adams, president of the United States, conformably to the fourth section of the act of congress aforesaid, do hereby proclaim and declare that the foreign and discriminating duties of tonnage and impost within the United States, are, and shall be suspended and discontinued, so far as respects the vessels of the subjects of his holiness the Pope, and the merchandize of the produce or manufacture of her dominions, imported into the United States in the same: the said suspension to take effect from the 30th of May aforesaid, and to continue, so long as the reciprocal exemption of vessels belonging to citizens of the United States, and merchandize as aforesaid, therein laden, shall be continued, and no longer.

Given under my hand, at the city of Washington, this seventh day of June, in the year of our Lord one thousand eight hundred and twenty-seven, and of the Independence of the United States the fifty-first.

JOHN QUINCY ADAMS.

By the president:—H. CLAY, Secretary of State.

No. 26.—*An act in addition to an act, entitled "An act concerning discriminating duties of tonnage and impost," and to equalize the duties on Prussian vessels and their cargoes.*

[Act of May 24, 1828.]

SEC. 1. *Be it enacted*, That, upon satisfactory evidence being given to the president of the United States, by the government of any foreign nation, that no discriminating duties of tonnage or impost are imposed or levied in the ports of the said nation, upon vessels wholly belonging to citizens of the United States, or upon the produce, manufacture, or merchandize, imported in the same from the United States, or from any foreign country, the president is hereby authorized to issue his proclamation, declaring that the foreign discriminating duties of tonnage and impost, within the United States are, and shall be, suspended and discontinued, so far as respects the vessels of the said foreign nation, and the produce, manufactures, or merchandize imported into the United States in the same, from the said foreign nation, or from any other foreign country; the said suspension to take effect from the time of such notification being given to the pre-

sident of the United States, and to continue so long as the reciprocal exemption of vessels, belonging to citizens of the United States, and their cargoes, as aforesaid, shall be continued, and no longer.

SEC. 2. That no other or higher rate of duties shall be imposed or collected on vessels of Prussia, or of her dominions, from whencesoever coming, nor on their cargoes, howsoever composed, than are, or may be, payable on vessels of the United States and their cargoes.

SEC. 3. That the secretary of the treasury be, and he is hereby, authorized to return all duties which have been assessed, since the fifteenth day of April, one thousand eight hundred and twenty-six, on Prussian vessels, and their cargoes, beyond the amount which would have been payable on vessels of the United States, and their cargoes; and that the same allowances of drawback be made on merchandize exported in Prussian vessels as would be made on similar exportations in vessels of the United States.

SEC. 4. That so much of this act as relates to Prussian vessels, and their cargoes, shall continue and be in force during the time that the equality for which it provides shall, in all respects, be reciprocated in the ports of Prussia, and her dominions; and if, at any time hereafter, the said equality shall not be reciprocated in the ports of Prussia, and her dominions, the president may, and he is hereby, authorized to issue his proclamation, declaring that fact, and thereupon so much of this act as relates to Prussian vessels, and their cargoes, shall cease and determine.

No. 27.—*Proclamation of the president of the 1st July, 1828, declaring the discriminating duties on impost and tonnage to be suspended so far as relates to the vessels, &c. of the kingdom of Hanover.*

By the President of the United States of America.—Proclamation.

Whereas, by an act of the congress of the United States, of the seventh of January, one thousand eight hundred and twenty-four, entitled "An act concerning discriminating duties of tonnage and impost," it is provided that, upon satisfactory evidence being given to the president of the United States, by the government of any foreign nation, that no discriminating duties of tonnage or impost are imposed or levied within the ports of the said nation, upon vessels belonging wholly to citizens of the United States, or upon merchandize, the produce or manufacture thereof, imported in the same, the president is thereby authorized to issue his proclamation, declaring that the foreign discriminating duties of tonnage and impost within the United States, are, and shall be suspended and discontinued, so far as respects the vessels of the said nation, and the merchandize of its produce, or manufacture, imported into the United States, in the same: the said suspension to take effect from the time of such notification being given to the president of the United States, and to continue so long as the reciprocal exemption of vessels, belonging to citizens of the United States, and merchandize, as aforesaid, thereon laden, shall be continued, and no longer.

And, whereas, satisfactory evidence has been received by me, from his Britannic majesty, as king of Hanover, through the right honorable Charles Richard Vaughan, his envoy extraordinary and minister plenipotentiary, that vessels wholly belonging to citizens of the United States, or merchandize, the produce or manufacture thereof, imported in such vessels, are not, nor shall be, on their entering any Hanoverian port, subject to the payment of higher duties of tonnage or impost than are levied on Hanoverian ships, or merchandize, the produce or manufacture of the United States, imported in such vessels.

Now, therefore, I, John Quincy Adams, President of the United States of America, do hereby declare and proclaim, that so much of the several acts imposing duties on the tonnage of ships and vessels, and on goods, wares and merchandize, imported into the United States, as imposed a discriminating duty of tonnage between the vessels of the kingdom of Hanover, and vessels of the United States, and between goods imported into the United States in vessels of the kingdom of Hanover, and vessels of the United States, are suspended and discontinued, so far as the same respects the produce or manufacture of the said kingdom of Hanover; the said suspension to take effect this day, and to continue henceforward, so long as the reciprocal exemption of the vessels of the United States, and of the merchandize laden therein, as aforesaid, shall continue in the ports of the kingdom of Hanover.

Given under my hand, at the city of Washington, the first day of July, in the year of our Lord one thousand eight hundred and twenty-eight, and the fifty-second of the Independence of the United States.

JOHN QUINCY ADAMS.

By the President:—H. CLAY, Secretary of State.

No. 28.—*Proclamation of the president of the 3d June, 1829, declaring the discriminating duties on impost and tonnage, to be suspended, so far as they relate to the vessels, &c. of Austria.*

By the President of the United States of America.—Proclamation.

Whereas, by an act of the congress of the United States, of the 24th of May, one thousand eight hundred and twenty-eight, entitled "An act in addition to an act, entitled "An act concerning discriminating duties of tonnage and impost," and to equalize the duties on Prussian vessels and their cargoes," it is provided that, upon satisfactory evidence being given to the president of the United States, by the government of any foreign nation, that no discriminating duties of tonnage or impost are imposed or levied in the ports of the said nation, upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures or merchandize, imported in the same from the United States, or from any foreign country, the president is thereby authorized to issue his proclamation, declaring that the foreign discriminating duties of tonnage and impost, within

the United States, are, and shall be suspended and discontinued, so far as respects the vessels of the said foreign nation, and the produce, manufactures, or merchandize, imported into the United States in the same, from the said foreign nation, or from any other foreign country, the said suspension to take effect from the time of such notification being given to the president of the United States, and to continue so long as the reciprocal exemption of vessels belonging to citizens of the United States, and their cargoes, as aforesaid, shall be continued, and no longer.

And whereas satisfactory evidence has lately been received by me, from his imperial majesty, the emperor of Austria, through an official communication of the Baron de Lederer, his consul general in the United States, under date of the 29th of May, 1829, that no other or higher duties of tonnage and impost are imposed or levied, since the first day of January last, in the ports of Austria, upon vessels wholly belonging to citizens of the United States, and upon the produce, manufactures, or merchandize imported in the same from the United States, and from any foreign country whatever, than are levied on Austrian ships and their cargoes, in the same ports, under like circumstances.

Now, therefore, I, Andrew Jackson, president of the United States of America, do hereby declare and proclaim, that so much of the several acts imposing discriminating duties of tonnage and impost within the United States, are, and shall be, suspended and discontinued, so far as respects the vessels of Austria, and the produce, manufactures, and merchandize imported into the United States in the same, from the dominions of Austria, and from any other foreign country whatever: the said suspension to take effect from the day above mentioned, and to continue thenceforward, so long as the reciprocal exemption of the vessels of the United States, and the produce, manufactures, and merchandize imported into the dominions of Austria, in the same, as aforesaid, shall be continued on the part of the government of his imperial majesty the emperor of Austria.

Given under my hand, at the city of Washington, this third day of June, in the year of our Lord one thousand eight hundred and twenty-nine, and of the Independence of the United States the fifty third.

ANDREW JACKSON.

By the President:—M. VAN BUREN, Secretary of State.

No. 29.—*Proclamation of the President, of the 18th September, 1830, suspending duties of impost and tonnage, relating to the vessels and goods, &c. of the dukedom of Oldenburg.*

By the President of the United States of America.—Proclamation.

Whereas, by an act of the congress of the United States, of the 24th of May, one thousand eight hundred and twenty eight, entitled "An act, in addition to an act, entitled 'An act concerning discriminating duties of tonnage and impost,' and to equalize the duties on Prussian vessels and

their cargoes," it is provided that, upon satisfactory evidence being given to the president of the United States, by the government of any foreign nation, that no discriminating duties of tonnage or impost are imposed or levied, in the ports of the said nation, upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandize, imported in the same, from the United States, or from any foreign country, the president is thereby authorized to issue his proclamation, declaring that the foreign discriminating duties of tonnage and impost within the United States are, and shall be suspended and discontinued, so far as respects the vessels of the said foreign nation, and the produce, manufactures, or merchandize, imported into the United States in the same, from the said foreign nation, or from any other foreign country; the said suspension to take effect from the time of such notification being given to the president of the United States, and to continue so long as the reciprocal exemption of vessels belonging to the citizens of the United States and their cargoes as aforesaid, shall be continued, and no longer.

And whereas satisfactory evidence has lately been received by me, from his royal highness the grand duke of Oldenburg, through an official communication of F. A. Mensch, his consul in the United States, under date of the 15th September, 1830, that no discriminating duties of tonnage or impost are imposed or levied, in the ports of the grand dukedom of Oldenburg, upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandize, imported in the same, from the United States, or from any other country.

Now, therefore, I, Andrew Jackson, president of the United States of America, do hereby declare and proclaim, that so much of the several acts imposing discriminating duties of tonnage and impost within the United States, are, and shall be suspended and discontinued, so far as respects the vessels of the grand dukedom of Oldenburg, and the produce, manufactures and merchandize, imported into the United States in the same, from the grand dukedom of Oldenburg, and from any foreign country whatever; the said suspension to take effect from the day above mentioned, and to continue thenceforward, so long as the reciprocal exemption of the vessels of the United States, and the produce, manufactures and merchandize, imported into the grand dukedom of Oldenburg, in the same, as aforesaid, shall be continued on the part of the government of his royal highness the grand duke of Oldenburg.

Given under my hand at the city of Washington, the eighteenth day of September, in the year of our Lord one thousand eight hundred and thirty, and the fifty-fifth of the Independence of the United States.

ANDREW JACKSON.

By the President:—M. VAN BUREN, Secretary of State.

No. 30.—*An act for carrying into effect the Convention of Navigation and Commerce between the United States and France, concluded at Washington, on the twenty fourth day of June, eighteen hundred and twenty-two.*

[Act of March 3, 1823.]

SEC. 1. *Be it enacted, &c.* That the act to impose a new tonnage duty on French ships or vessels, approved on the fifteenth day of May, one thousand eight hundred and twenty, be, and the same is hereby repealed.

SEC. 2. *And be it further enacted,* That for the term of two years, from and after the thirtieth day of September last articles of the growth, produce or manufacture, of France, imported into the United States, in French vessels, shall pay an additional duty of three dollars and seventy five cents per ton of merchandise, according to the tenor of the Convention of Navigation and Commerce between the United States and France, concluded on the twenty-fourth day of June, one thousand eight hundred and twenty-two, over and above the duties collected upon the like articles, also of the growth, produce or manufacture, of France, when imported in vessels of the United States: *Provided always,* That no discriminating duty shall be levied upon the productions of the soil or industry of France, imported in French bottoms, into the ports of the United States, for transit or re-exportation.

SEC. 3. *And be it further enacted,* That, from and after the expiration of two years from the said thirtieth day of September last, in case of the continuance in force of the said Convention and so long as the same shall continue in force, the extra duties, specified in the second section of this act, shall, from and after the said thirtieth day of September, one thousand eight hundred and twenty-four be diminished by one-fourth of the whole amount; and afterwards, by one-fourth of said amount, from year to year, so long as neither of the parties to the said Convention shall have declared the intention of renouncing the same in the manner therein provided, and until the whole of such discriminating and extra duty shall have been done away.

SEC. 4. *And be it further enacted,* That during the continuance in force of the said Convention, the duties of tonnage, light money, pilotage, port charges, brockering, [brokerage,] and all other duties, upon foreign shipping, over and above those paid by vessels of the United States, other than those specified in the second section of this act, shall not exceed, for French vessels in the ports of the United States, ninety-four cents per ton of the vessel's French passport.

SEC. 5. *And be it further enacted,* That the Secretary of the Treasury be, and he is hereby, authorized to cause to be refunded, from any monies in the Treasury not otherwise appropriated, any extra duties levied before the twenty-fourth day of June last, by virtue of the act of Congress of the fifteenth of May, one thousand eight hundred and twenty, imposing a new tonnage duty on French ships or vessels.

SEC. 6. *And be it further enacted*, That, if the second separate article of the said Convention, concluded on the twenty-fourth of June last, should be ratified by both the contracting parties thereto, and the ratification thereof should be exchanged, on or before the twenty third day of June next, then, from and after the expiration of two months, subsequent to the said exchange of ratifications, and during the continuance in force of the said separate article, the extra duties specified in the second section of this act shall be levied only upon the excess of value of the merchandise imported into the United States in any French vessel, over the value of the merchandise exported from the United States in the same vessel, upon the same voyage; so that, if the value of the articles exported shall equal or exceed that of the articles imported in the same vessel, (not including articles imported for transit or re-exportation,) no such extra duties shall be levied; and if the articles exported are less in value than those imported, the extra duties shall be levied only upon the amount of difference of their value.

SEC. 7. *And be it further enacted*, That all acts, or parts of acts of Congress, incompatible with the execution of each and every article of the said Convention, concluded on the twenty-fourth of June last, and of its ratified separate article, be and the same are hereby repealed.

COMMERCIAL INTERCOURSE WITH MARTINIQUE & GUADALOUPE.

No. 31.—*An act regulating commercial intercourse with the Islands of Martinique and Guadeloupe.*

[Act of May 9, 1828.]

SEC. 1. *Be it enacted*, That all French vessels coming directly from the islands of Martinique and Guadeloupe, and laden with articles, the growth or manufacture of either of said islands, and which are permitted to be exported therefrom in American vessels, may be admitted into the ports of the United States on payment of no higher duties on tonnage, or on their cargoes, as aforesaid, than are imposed on American vessels, and on like cargoes imported in American vessels: *Provided*, That if the president of the United States shall, at any time, receive satisfactory information that the privileges allowed to American vessels and their cargoes at said islands, by the French ordinance of February fifth, one thousand eight hundred and twenty-six, have been revoked or annulled, he is hereby authorized, by proclamation to suspend the operations of this act, and withhold all privileges allowed under it.

APPREHENSION OF DESERTERS.

No. 32.—*An act to provide for the apprehension and delivery of deserters from certain foreign vessels in the ports of the United States.*

[Act of March 2, 1829.]

SEC. 1. *Be it enacted*, That on application of a consul or vice-consul of any foreign government, having a treaty with the United States, stipulating

for the restoration of seamen deserting, made in writing, stating that the person therein named has deserted from a vessel of any such government while in any port of the United States, and on proof by the exhibition of the register of the vessel, ship's roll, or other official document, that the person named belonged, at the time of desertion, to the crew of said vessel, it shall be the duty of any court, judge, justice, or other magistrate, having competent power, to issue warrants to cause the said person to be arrested for examination; and if, on examination, the facts stated are found to be true, the person arrested, not being a citizen of the United States, shall be delivered up to the said consul or vice-consul, to be sent back to the dominions of any such government, or, on the request, and at the expense of the said consul or vice-consul, shall be detained until the consul or vice-consul finds an opportunity to send him back to the dominions of any such government: *Provided nevertheless*, That no person shall be detained more than two months after his arrest; but at the end of that time shall be set at liberty, and shall not be again molested for the same cause: *And provided further*, That if any such deserter shall be found to have committed any crime or offence, his surrender may be delayed until the tribunal before which the case shall be depending, or may be cognizable, shall have pronounced its sentence, and such sentence shall have been carried into effect.

RUSSIA.—CONTRAVENTIONS OF FIFTH ARTICLE OF TREATY.

No. 33.—*An act for the punishment of contraventions of the fifth article of the treaty between the United States and Russia.*

[Act of May 19, 1828.]

SEC. 1. *Be it enacted*, That if any one, being a citizen of the United States, or trading under their authority, shall, in contravention of the stipulations entered into by the United States with the emperor of all the Russias, by the fifth article of the treaty, signed at St. Petersburg, on the seventeenth day of April, in the year of our Lord one thousand eight hundred and twenty-four, sell, or cause to be sold, to the natives of the country on the north-west coast of America, or any of the islands adjacent thereto, any spirituous liquors, fire-arms, or other arms, powder or munitions of war of any kind, the person so offending shall be fined in a sum not less than fifty, nor more than two hundred dollars, or imprisoned not less than thirty days, nor more than six months.

SEC. 2. *And be it further enacted*, That the superior courts in each of the territorial districts, and the circuit courts and other courts of the United States, of similar jurisdiction in criminal causes, in each district of the United States, in which any offender against this act shall be first apprehended or brought for trial, shall have, and are hereby invested with, full power and authority to hear, try and punish, all crimes, offences and misdemeanors, against this act; such courts proceeding therein in the same manner as if such crimes, offences and misdemeanors, had been committed within the bounds of their respective districts.

No. 34.—*An act to provide for the adjustment of claims of persons entitled to indemnification under the convention between the United States and his majesty the King of Denmark, of the twenty-eighth March, eighteen hundred and thirty, and for the distribution among such claimants of the sums to be paid by the Danish Government to that of the United States, according to the stipulation of the said convention.*

[Act of February 25, 1831.]

SEC. 1. *Be it enacted, &c.* That the commissioners who are or may be appointed by the president of the United States, by and with the advice and consent of the Senate, in pursuance of the third article of the convention between the United States of America and his Majesty the King of Denmark, signed at Copenhagen the twenty-eighth day of March, one thousand eight hundred and thirty, shall meet at Washington City, in the District of Columbia, and, within the space of two years from the time of their first meeting, shall receive, examine, and decide upon the amount and validity of all such claims as may be presented to them, and are provided for by the convention referred to, according to the merits of the several cases, and to justice, equity, and the law of nations, and according to the provisions of said convention.

SEC. 2. That all records, documents, or other papers, which now are in or hereafter, during the continuance of this commission, may come into the possession of the Department of State, in relation to such claims, shall be delivered to the commission aforesaid.

SEC. 3. That the said commissioners, or a majority of them, with their Secretary, whose appointment is hereinafter provided for, shall convene in this city on the first Monday of April next, and shall proceed to execute the duties of their commission; and the Secretary of State shall be, and he is hereby authorized and required forthwith, after the passing of this act, to give notice of the said intended meeting, to be published in one or more public gazettes in the city of Washington, and in such other public papers, published elsewhere in the United States, as he may designate.

SEC. 4. That the said commissioners shall proceed immediately after their meeting in the city of Washington, with all convenient despatch, to arrange and docket the several claims, and to consider the evidence which shall have been, or which may be offered by the respective claimants allowing such further time for the production of such further evidence as may be required, and as they shall think reasonable and just: and they shall thereupon proceed to determine the said claims, and to award distribution of the sums to be received by the United States from the King of Denmark under the stipulations of the convention aforesaid, among the several claimants, according to their respective rights.

SEC. 5. That the said commissioners shall be, and they are hereby authorized and empowered to make all needful rules and regulations, not con-

travening the laws of the land, the provisions of this act, or the provisions of the said convention, for carrying their said commission into full and complete effect.

SEC. 6. That the President of the United States be and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint a Secretary to the said commission.

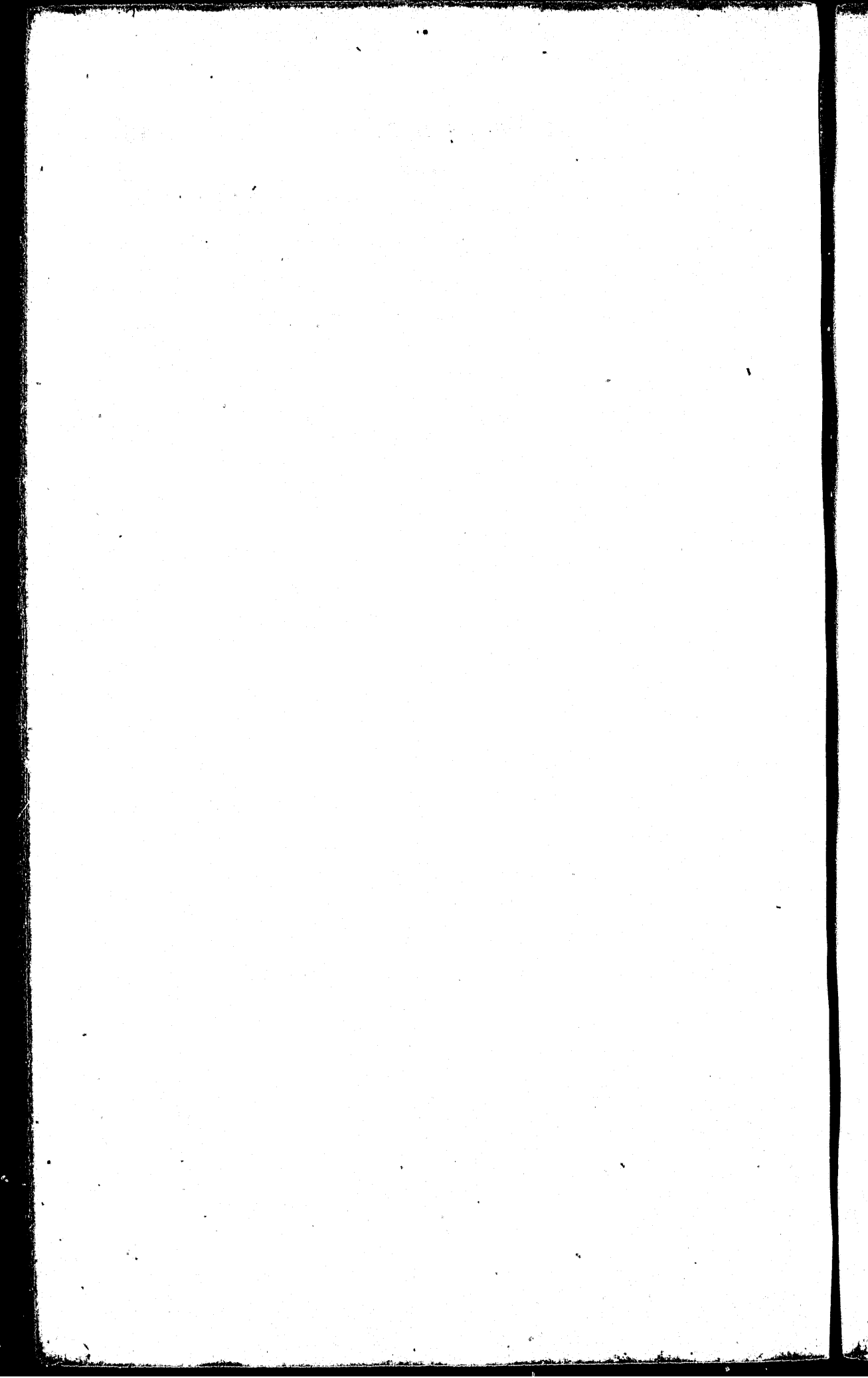
SEC. 7. That the said commissioners and Secretary shall severally take an oath for the faithful performance of the duties of their respective offices.

SEC. 8. That the compensation of the respective officers for whose appointment provision is made by this act shall not exceed the following sums: to each of the said commissioners at the rate of three thousand dollars per annum, and to the Secretary of the Board at the rate of two thousand dollars per annum; and the president of the United States shall be, and he is hereby, authorized to make such provision for the contingent expenses of the said commission as shall appear to him reasonable and proper; and the said salaries and expenses shall be paid out of any money in the Treasury, not otherwise appropriated.

SEC. 9. That all moneys to be received from the Danish Government under the convention aforesaid, shall be paid into the Treasury of the United States, and shall constitute a fund for satisfying the awards of the commission provided for by this act.

SEC. 10. That all communications to or from the Secretary of the Board of Commissioners on the business of the commission, shall pass by mail free of postage.

SEC. 11. That as soon as the said commission shall be executed and completed, the records, documents, and all other papers in the possession of the commission or its officers shall be disposed in the office of the Secretary of State.



No. 35.—*An Act to carry into effect the convention between the United States and his Majesty the King of the French, concluded at Paris on the fourth of July, one thousand eight hundred and thirty-one.*

[Act of July 13, 1832.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States, by and with the advice and consent of the Senate, shall appoint three commissioners, who shall form a board, whose duty it shall be to receive and examine all claims which may be presented to them under the convention between the United States and France, of the fourth of July, one thousand eight hundred and thirty one, which are provided for by the said convention, according to the provisions of the same, and the principles of justice, equity, and the law of nations. The said board shall have a secretary, versed in the English, French, and Spanish languages, and a clerk, both to be appointed by the President, by and with the advice and consent of the Senate; and the commissioners, secretary, and clerk, shall, before they enter on the duties of their offices, take oath well and faithfully to perform the duties thereof.

SEC. 2. *And be it further enacted,* That the said commissioners shall be, and they are hereby, authorized to make all needful rules and regulations, not contravening the laws of the land, the provisions of this act, or the provisions of the said convention for carrying their said commission into full and complete effect.

SEC. 3. *And be it further enacted,* That the board so constituted shall meet on the first Monday of August next at the city of Washington; and, within two years from the time of its meeting, shall terminate its duties. And the Secretary of State is required forthwith, after the passing of this act, to give notice of the said meeting; to be published in two newspapers in Washington, and in such other papers as he may think proper.

SEC. 4. *And be it further enacted,* That all records, documents, or other papers, which now are in, or hereafter, during the continuance of this commission, may come into the possession of the Department of State, in relation to such claims, shall be delivered to the commission aforesaid.

SEC. 5. *And be it further enacted,* That the compensation of the respective officers, for whose appointment provision is made by this act, shall not exceed the following sums, namely: to each of the said commissioners, at the rate of three thousand dollars per annum; to the Secretary of the board at the rate of two thousand dollars per annum; and to the clerk at the rate of fifteen hundred dollars per annum. And the President of the United States shall be, and he is hereby authorized, to make such provision for the contingent expenses of the said commission, as shall appear to him reasonable and proper; and the said salaries and expenses shall be paid out of any money in the Treasury not otherwise appropriated.

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SEC. 6. *And be it further enacted,* That the said commissioners shall report to the Secretary of State a list of the several awards made by them: a certified copy whereof shall be transmitted to the Secretary of the Treasury, who shall thereupon distribute, in ratable proportions, among the persons in whose favor the awards shall have been made, such moneys as may have been received into the Treasury in virtue of this act, according to the proportions which their respective awards shall bear to the whole amount then received, first deducting such sums of money as may be due the United States from said persons in whose favor said awards shall be made; and shall also cause certificates to be issued by the Secretary of the Treasury, in such form as he may prescribe, showing the proportion to which each may be entitled of the amount that may thereafter be received; and, on the presentation of the said certificates at the Treasury, as the nett proceeds of the general instalments, payable by the French Government, shall have been received, such proportions thereof shall be paid to the legal holders of the said certificates.

SEC. 7. *And be it further enacted,* That it shall be the duty of the Secretary of the Treasury to cause the several instalments, with the interest thereon, payable to the United States in virtue of the said convention, to be received from the French Government, and transferred to the United States, in such manner as he may deem best, and the nett proceeds thereof to be paid into the Treasury; and, on the payment of the proceeds of each of the said instalments, there shall be set apart, of the money in the Treasury, such further sum as would have been received from the nett proceeds of such instalment, if the reservation stipulated by the fourth article of the said convention had not been deducted; and the moneys which may be thus set apart, together with those which may be received into the Treasury under this act, shall be, and the same are hereby, appropriated, to satisfy the awards herein provided for.

SEC. 8. *And be it further enacted,* That all communications to or from the secretary of the board of commissioners, on the business of the commission, shall pass by mail free of postage.

SEC. 9. *And be it further enacted,* That, as soon as said commission shall be executed and completed, the records, documents, and all other papers in the possession of the commission or its officers, shall be deposited in the office of the Secretary of State.

SEC. 10. *And be it further enacted,* That for the term of ten years, from and after the second day of February, one thousand eight hundred and thirty-two, wines, the produce of France, shall be admitted into the United States on paying duties not exceeding the following rates on the gallon, (such as is at present used in the United States,) that is to say: six cents for red wine in casks, ten cents for white wine in casks, and twenty-two cents for wine of all sorts in bottles.

No. 36. *An Act for giving effect to a commercial arrangement between the United States and the Republic of Colombia.*

[Act of May 19, 1832.]

SEC. 1. *Be it enacted, &c.* That vessels of the Republic of Colombia, and their cargoes, whether of foreign or domestic produce or manufacture, which shall come direct from the ports of that nation to the United States, shall pay no greater duties on importation, anchorage, tonnage, or any other kind, than are now, or hereafter may be, levied on the vessels of the United States.

SEC. 2. That the restriction of coming direct from a port in Colombia, contained in the preceding section, shall be taken off, as soon as the President shall receive satisfactory evidence, that a like restriction is taken off from vessels of the United States in the ports of the Republic of Colombia, and shall make known the same by his proclamation declaring the fact.

SEC. 3. That if the President of the United States shall at any time receive satisfactory information that the privileges allowed or which may be allowed to American vessels and their cargoes in the ports of Colombia, corresponding with those, extended, or to be extended by this act, to Colombian vessels and their cargoes in the ports of the United States, have been revoked or annulled, he is hereby authorized, by proclamation, to suspend the operation of either or both of the provisions of this act, as the case may be, and to withhold any or all the privileges allowed, or to be allowed, to Colombian vessels or their cargoes.

No. 37. *An act to exempt the vessels of Portugal from the payment of duties on tonnage.*

[Act of May 25, 1832.]

SEC. 1. *Be it enacted, &c.* That no duties upon tonnage shall be hereafter levied or collected of the vessels of the kingdom of Portugal: *Provided always,* That whenever the President of the United States, shall be satisfied that the vessels of the United States are subjected in the ports of the kingdom of Portugal, to payment of any duties of tonnage, he shall, by proclamation declare the fact, and the duties now payable by the vessels of that kingdom, shall be levied and paid, as if this act had not been passed.

No. 38. *An Act concerning Tonnage Duty on Spanish Vessels.*

[Act of July 13, 1832.]

SEC. 1. *Be it enacted, &c.* That no other or greater duty of tonnage be levied in the ports of the United States on vessels owned wholly by subjects of Spain, coming from a port in Spain, than shall, by the Secretary of the Treasury be ascertained to have been paid on American vessels in the ports of Spain previous to the twentieth October, one thousand eight hundred and seventeen.

SEC. 2. That vessels owned wholly by Spanish subjects, coming from any of the colonies of Spain, either directly or after touching at any other port or place, shall pay, in the ports of the United States, the same rate of duty on tonnage that shall be levied on American vessels in the Spanish colonial port from whence such Spanish vessel shall have last departed; the said amount to be ascertained by the Secretary of the Treasury, who is hereby authorized, from time to time, to give directions, to the officers of the customs of the United States for the collection of such duties, so as to conform the said duties to any variation that may take place in the duties levied on American vessels in such Spanish ports.

SEC. 3. That whenever the President shall be satisfied that the discriminating or countervailing duties of tonnage levied by any foreign nation on the ships or vessels of the United States, shall have been abolished, he may direct that the tonnage duty on the vessels of such nation shall cease to be levied in the ports of the United States; and cause any duties of tonnage that may have been levied on the vessels of such foreign nation, subsequent to the abolition of its discriminating duties of tonnage to be refunded.

SEC. 4. That the second and third sections of this act shall be in force and take effect from and after the first day of January next.

EXTRACTS FROM TREATIES AND CONVENTIONS,
BETWEEN GREAT BRITAIN AND OTHER POWERS.

[Desirous of embracing every material point, connected with the object of this work, it has been deemed proper to introduce extracts from some of the Conventions of *Commerce, Navigation, &c.* as at present subsisting between the leading Powers of Europe; collected from sources, probably, not at all times within the reach of every public officer. We have, therefore, extracted those conventional parts, only, that may probably be useful, or interesting, to this country, in its intercourse with Foreign Nations: at the same time, we have carefully endeavored to preserve their most important provisions, in order to show the basis, on which most of these conventions, (framed about the period of the general pacification of Europe in 1815) appear to be established: moreover, as a commercial community, and from our geographical position in America, it must be admitted that we have a deep interest, in many of the stipulations of the following public documents, and, of course, they are appropriately added to this volume.]

GREAT BRITAIN AND FRANCE.

No. 1. *Treaty of peace and friendship between Great Britain and France. Signed at Utrecht, the 31st March, [11th April,] 1713. EXTRACT.*

X. The most christian king shall restore to the kingdom and queen of Great Britain, to be possessed in full right forever, the bay and streights of Hudson, together with all lands, seas, sea coasts, rivers, and places situate in the said bay and streights, and which belong thereunto, no tracts of land or of sea being excepted, which are at present possessed by the subjects of France. All which, as well as any buildings there made, in the condition they now are, and likewise all fortresses there erected, either before or since the French seized the same, shall, within six months from the ratification of the present treaty, or sooner, if possible, be well and truly delivered to the British subjects, having commission from the queen of Great Britain to demand and receive the same, entire and undemolished, together with all the cannon and cannon-ball which are therein, as also with a quantity of powder, if it be there found, in proportion to the caannon-ball, and with the other provision of war usually belonging to cannon. It is, however, provided, that it may be entirely free for the company of Quebec, and all other the subjects of the most christian king whatsoever, to go by land, or by sea, whithersoever they please, out of the lands of the said bay, together with all their goods, merchandizes, arms, and effects, of what nature or condition soever, except such things as are above reserved in this article. But it is agreed on both sides, to determine within a year, by com-

missaries to be forthwith named by each party, the limits which are to be fixed between the said bay of Hudson and the places appertaining to the French; which limits, both the British and French subjects shall be wholly forbid to pass over, or thereby to go to each other by sea or by land. The same commissaries shall also have orders to describe and settle, in like manner, the boundaries between the other British and French colonies in those parts.

XI. The abovementioned most christian king shall take care that satisfaction be given, according to the rule of justice and equity, to the English company trading to the bay of Hudson, for all damages and spoil done to their colonies, ships, persons, and goods, by the hostile incursions and depredations of the French, in time of peace, an estimate being made thereof by commissaries to be named at the requisition of each party. The same commissaries shall moreover inquire as well into the complaints of the British subjects, concerning ships taken by the French in time of peace, as also concerning the damages sustained last year in the island called Montserat, and others, as into those things of which the French subjects complain, relating to the capitulation in the island of Nevis, and castle of Gambia, also to French ships, if perchance any such have been taken by British subjects in time of peace; and in like manner into all disputes of this kind, which shall be found to have arisen between both nations, and which are not yet ended; and due justice shall be done on both sides without delay.

XII. The most christian king shall take care to have delivered to the queen of Great Britain, on the same day that the ratifications of this treaty shall be exchanged, solemn and authentic letters, or instruments, by virtue whereof it shall appear, that the island of St. Christopher's is to be possessed alone hereafter by British subjects, likewise all Nova Scotia or Acadie, with its ancient boundaries, as also the city of Port Royal, now called Annapolis Royal, and all other things in those parts which depend on the said lands and islands, together with the dominion, propriety, and possession of the said islands, lands, and places, and all right whatsoever, by treaties, or by any other way obtained, which the most christian king, the crown of France, or any the subjects thereof, have hitherto had to the said islands, lands, and places, and the inhabitants of the same, are yielded and made over to the queen of Great Britain, and to her crown, forever, as the most christian king doth at present yield and make over all the particulars abovesaid; and that in such ample manner and form, that the subjects of the most christian king shall hereafter be excluded from all kind of fishing in the said seas, bays, and other places, on the coasts of Nova Scotia, that is to say, on those which lie towards the east, within thirty leagues, beginning from the island commonly called Sable, inclusively, and thence stretching along towards the south-west.

XIII*. The island called Newfoundland, with the adjacent islands, shall

* Renewed by Article V. of the treaty of Paris, 1763.

from this time forward belong of right wholly to Britain; and to that end, the town and fortress of Placentia, and whatever other places in the said island are in the possession of the French, shall be yielded and given up, within seven months from the exchange of the ratifications of this treaty, or sooner, if possible, by the most christian king, to those who have a commission from the queen of Great Britain for that purpose. Nor shall the most christian king, his heirs and successors, or any of their subjects, at any time hereafter, lay claim to any right to the said island and islands, or to any part of it, or them. Moreover, it shall not be lawful for the subjects of France to fortify any place in the said island of Newfoundland, or to erect any buildings there, besides stages made of boards, and huts necessary and usual for drying of fish; or to resort to the said island, beyond the time necessary for fishing, and drying of fish. But it shall be allowed to the subjects of France to catch fish, and to dry them on land, in that part only, and in no other besides that, of the said island of Newfoundland, which stretches from the place called Cape Bonavista to the northern point of the said island, and from thence running down by the western side, reaches as far as the place called Point Riche. But the island called Cape Breton, as also all others, both in the mouth of the river of St. Lawrence, and in the gulph of the same name, shall hereafter belong of right to the French, and the most christian king shall have all manner of liberty to fortify any place or places there.

XIV. It is expressly provided, that in all the said places and colonies to be yielded and restored by the most christian king, in pursuance of this treaty, the subjects of the said king may have liberty to remove themselves within a year, to any other place, as they shall think fit, together with all their moveable effects. But those who are willing to remain there, and to be subject to the kingdom of Great Britain, are to enjoy the free exercise of their religion, according to the usage of the church of Rome, as far as the laws of Great Britain do allow the same.

XV. The subjects of France inhabiting Canada, and others, shall hereafter give no hinderance or molestation to the five nations or cantons of Indians, subject to the dominion of Great Britain, nor to the other natives of America, who are friends to the same. In like manner, the subjects of Great Britain shall behave themselves peaceably towards the Americans who are subjects or friends to France; and on both sides they shall enjoy full liberty of going and coming on account of trade. As also the natives of those countries shall, with the same liberty, resort, as they please, to the British and French colonies, for promoting trade on one side and the other, without any molestation or hinderance, either on the part of the British subjects or of the French. But it is to be exactly and distinctly settled by commissaries, who are, and who ought to be accounted the subjects and friends of Britain or of France.

No. 2. *Definitive Treaty between Great Britain and France (and Spain.)*
Signed at Paris, the 10th February, 1763. EXTRACT. (Translation.)

V.* The subjects of France shall have the liberty of fishing and drying, on a part of the coasts of the Island of Newfoundland, such as it is specified in Article 13 of the Treaty of Utrecht; which Article is renewed and confirmed by the present Treaty (except what relates to the Island of Cape Breton, as well as to the other Islands and coasts in the mouth and in the Gulph of St. Lawrence. And His Britannic Majesty consents to leave to the subjects of the Most Christian King the liberty of fishing in the Gulph St. Lawrence, on condition that the subjects of France, do not exercise the said fishery, but at the distance of three leagues from all the coasts belonging to Great Britain, as well those of the continent, as those of the islands situated in the said Gulph St. Lawrence. And as to what relates to the fishery on the Coast of the Islands of Cape Breton out of the said Gulph, the subjects of the Most Christian King shall not be permitted to exercise the said fishery, but at the distance of fifteen leagues from the coast of the Island of Cape Breton; and the fishery on the coasts of Nova Scotia or Acadia, and every where else out of the said Gulph, shall remain on the footing of former Treaties.

VI. The King of Great Britain cedes the Islands of St. Pierre and Miquelon, in full right, to His Most Christian Majesty, to serve as a shelter to the French fishermen: and His said Most Christian Majesty, engages not to fortify the said Islands; to erect no buildings upon them, but merely for the convenience of the fishery; and to keep upon them a guard of fifty men only for the police.

VII. In order to re-establish peace on solid and durable foundations, and to remove for ever all subject of dispute with regard to the limits of the British and French territories on the continent of America; it is agreed, that, for the future, the confines between the dominions of his Britannic Majesty, and those of his most Christian Majesty, in that part of the world, shall be fixed irrevocably by a line drawn along the middle of the river Mississippi, from its source to the river Iberville, and from thence, by a line drawn along the middle of this river, and the lakes Maurepas and Pontchartrain, to the sea; and for this purpose, the most Christian King cedes in full right, and guaranties to his Britannic Majesty, the river and port of the Mobile, and every thing which he possesses, or ought to possess, on the left side of the river Mississippi, except the town of New Orleans, and the island in which it is situated, which shall remain to France; provided that the navigation of the river Mississippi shall be equally free, as well to the subjects of Great Britain as to those of France, in its whole breadth and length, from its source to the sea, and expressly that part which is between the said island of New Orleans and the right bank of that river, as well as the passage both in and out of its mouth. It is further stipulated,

*Renewed by article 6, of the Treaty of Versailles, 1763.

that the vessels belonging to the subjects of either nation shall not be stopped visited, or subjected to the payment of any duty whatsoever The stipulations, inserted in the IVth article. in favour of the inhabitants of Canada, shall also take place with regard to the inhabitants of the countries ceded by this article.

Done at Paris the 10th of February, 1763.

BEDFORD, C. P. S. [L. S.]

CHOISEUL, DUC DE PRASLIN, [L. S.]
EL MARQ. DE GRIMALDI, [L. S.]

No. 3. *Definitive Treaties between Great Britain and France. Signed at Versailles. 3d of September, 1783 **

EXTRACT. (*Translation, as laid before Parliament.*)

IV. His Majesty the King of Great Britain is maintained in His right to the Island of Newfoundland, and to the adjacent Islands, as the whole were assured to Him by the Thirteenth Article of the Treaty of Utrecht: excepting the Islands of St. Pierre and Miquelon, which are ceded in full right, by the present Treaty, to His Most Christian Majesty.

V. His Majesty the Most Christian King, in order to prevent the quarrels which have hitherto arisen between the two Nations of England and France, consents to renounce the right of fishing, which belongs to Him in virtue of the aforesaid Article of the Treaty of Utrecht, from Cape Bonavista to Cape St. John, situated on the eastern coast of Newfoundland, in fifty degrees North latitude, and His Majesty the King of Great Britain consents on His part, that the fishery assigned to the subjects of His Most Christian Majesty, beginning at the said Cape St. John, passing to the north, and descending by the western coast of the Island of Newfoundland, shall extend to the place called Cape Raye, situated in forty-seven degrees, fifty minutes latitude. The French fishermen shall enjoy the fishery which is assigned to them by the present Article, as they had the right to enjoy that which was assigned to them by the Treaty of Utrecht.

VI. With regard to the fishery in the Gulph of St. Lawrence, the French shall continue to exercise it conformably to the fifth Article of the Treaty of Paris.

Done at Versailles, the 3d of September, 1783.

(Signed) MANCHESTER, [L. S.]

GRAVIER DE VERGENNES, [L. S.]

No. 4 *The Definitive Treaty of Peace and Friendship between his Britannic Majesty, and the King of Spain. Signed at Versailles, the 3d of September, 1783. EXTRACT.*

V. His Britannic Majesty cedes and guaranties, in full right, to his Catholic Majesty, East Florida, as also West Florida. His Catholic Majesty agrees that the British inhabitants, or others who may have been subjects of the King of Great Britain in the said countries, may retire in full security and liberty, where they shall think proper, and may sell their estates, and remove their effects, as well as their persons, without being

restrained in their emigration, under any pretence whatsoever, except on account of debts, or criminal prosecutions; the term limited for this emigration being fixed to the space of eighteen months, to be computed from the day of the exchange of the ratifications of the present treaty: but if from the value of the possessions of the English proprietors, they should not be able to dispose of them within the said term, then his Catholic Majesty shall grant them a prolongation proportioned to that end. It is further stipulated, that his Britannic Majesty shall have the power of removing from East Florida all the effects which may belong to him whether artillery, or other matters.

No. 5. *British Declaration, signed at Versailles, 3d of September, 1783.*

EXTRACT.

The King having entirely agreed with His Most Christian Majesty upon the Articles of the Definitive Treaty, will seek every means which shall not only ensure the execution thereof, with His accustomed good faith and punctuality, but will besides give, on His part, all possible efficacy to the principles which shall prevent even the least foundation of dispute for the future.

To this end, and in order that the fishermen of the two nations may not give cause for daily quarrels, His Britannic Majesty will take the most positive measures for preventing His subjects from interrupting, in any manner, by their competition, the fishery of the French, during the temporary exercise of it which is granted to them, upon the coasts of the Island of Newfoundland; and He will, for this purpose, cause the fixed settlements which shall be formed there, to be removed. His Britannic Majesty will give orders, that the French fishermen be not incommoded, in cutting the wood necessary for the repair of their scaffolds, huts, and fishing vessels.

The thirteenth article of the Treaty with Utrecht, and the method of carrying on the fishery which has at all times been acknowledged, shall be the plan upon which the fishery shall be carried on there; it shall not be deviated from by either party; the French fishermen building only their scaffolds, confining themselves to the repair of their fishing vessels, and not wintering there; the subjects of His Britannic Majesty, on their part, not molesting, in any manner, the French fishermen, during their fishing, nor injuring their scaffolds during their absence.

The King of Great Britain, in ceding the Islands of St. Pierre and Miquelon to France, regards them as ceded for the purpose of serving as a real shelter to the French fishermen, and in full confidence that these possessions will not become an object of jealousy between the two nations; and that the fishery between the said Islands, and that of Newfoundland, shall be limited to the middle of the channel.

Given at Versailles, the 3d of September, 1783.

(Signed) MANCHESTER, [L. s.]

No. 6. *French Counter-Declaration, signed at Versailles, the 3d of September, 1783.* EXTRACT.

The principles which have guided the King, in the whole course of the negociations which preceded the re-establishment of peace, must have convinced the King of Great Britain, that His Majesty has had no other desire than to render it solid and lasting, by preventing, as much as possible, in the four quarters of the world, every subject of discussion and quarrel. The King of Great Britain undoubtedly places too much confidence in the uprightness of His Majesty's intentions, not to rely upon His constant attention to prevent the Islands of St. Pierre and Miquelon from becoming an object of jealousy between the two nations.

As to the fishery on the coasts of Newfoundland, which has been the object of the new arrangements settled by the two Sovereigns upon this matter, it is sufficiently ascertained by the fifth Article of the Treaty of Peace signed this day, and by the Declaration likewise delivered to-day, by His Britannic Majesty's Ambassador Extraordinary and Plenipotentiary: and His Majesty declares, that He is fully satisfied on this head.

In regard to the fishery between the Island of Newfoundland, and those of St. Pierre and Miquelon, it is not to be carried on, by either party, but to the middle of the channel, and His Majesty will give the most positive orders, that the French fishermen shall not go beyond this line. His Majesty is firmly persuaded that the King of Great Britain will give like orders to the English fishermen.

Given at Versailles, the 3d of September, 1783.

(Signed)

GRAVIER DE VERGENNES.

No. 7. *Definitive Treaty between Great Britain and France. Signed at Paris, the 30th day of May, 1814.** EXTRACT.

I. There shall be from this day forward perpetual peace and friendship between His Britannic Majesty and His Allies on the one part, and His Majesty the King of France and Navarre on the other, their heirs and successors, their dominions and subjects, respectively.

V. The navigation of the Rhine, from the point where it becomes navigable unto the sea, and vice versa, shall be free, so that it can be interdicted to no one:—and at the future Congress, attention shall be paid to the establishment of the principles according to which the duties to be raised by the States, bordering on the Rhine may be regulated, in the mode the most impartial, and the most favorable to the commerce of all nations.

The future Congress, with a view to facilitate the communication between nations, and continually to render them less strangers to each other, shall likewise examine and determine in what manner the above provision can be extended to the other rivers which, in their navigable course, separate or traverse different States.

*Confirmed by Article 11, of the Definitive Treaty 20 November, 1816.

VII. The Island of Malta and its dependencies shall belong in full right and Sovereignty to His Britannic Majesty.

VIII. His Britannic Majesty, stipulating for Himself and His Allies, engages to restore to His Most Christian Majesty, within the term which shall be hereafter fixed, the colonies, fisheries, factories and establishments of every kind, which were possessed by France on the 1st of January, 1792, in the seas and on the continents of America, Africa, and Asia; with the exception however of the Islands of Tobago and St. Lucia and of the Isle of France and its dependencies, especially Rodrigues and the Sechelles, which several colonies and possessions His Most Christian Majesty cedes in full right and Sovereignty to His Britannic Majesty, and also the portion of St. Domingo ceded to France by the Treaty of Basle, and which His Most Christian Majesty restores in full right and Sovereignty to His Catholic Majesty.

IX. His Majesty the King of Sweden and Norway, in virtue of the arrangements stipulated with the Allies, and in execution of the preceding Article, consents that the Island of Guadaloupe be restored to His Most Christian Majesty, and gives up all the rights He may have acquired over that island.

X. Her Most Faithful Majesty in virtue of the arrangements stipulated with Her Allies and in execution of the 8th Article, engages to restore French Guyana as it existed on the 1st of January, 1792, to His Most Christian Majesty, within the term hereafter fixed.

The renewal of the dispute which existed at that period on the subject of the frontier, being the effect of this stipulation, it is agreed that that dispute shall be terminated by a friendly arrangement between the two Courts, under the mediation of His Britannic Majesty.

XI. The places and forts in those colonies and settlements, which, by virtue of the 8th, 9th, and 10th Articles, are to be restored to His Most Christian Majesty, shall be given up in the state in which they may be at the moment of the signature of the present Treaty.

XII. His Britannic Majesty guarantees to the subjects of His Most Christian Majesty the same facilities, privileges, and protection, with respect to commerce, and the security of their persons and property within the limits of the British Sovereignty on the Continent of India, as are now or shall be granted to the most favoured nations.

His Most Christian Majesty, on His part, having nothing more at heart than the perpetual duration of Peace between the two Crowns of England and of France, and wishing to do His utmost to avoid any thing which might, affect their mutual good understanding, engages not to erect any fortifications in the establishments which are to be restored to Him within the limits of the British Sovereignty upon the Continent of India, and only to place in those establishments the number of troops necessary for the maintenance of the police.

XIII. The French right of fishery upon the great bank of Newfoundland, upon the coasts of the island of that name, and of the adjacent islands in the Gulph of St. Lawrence, shall be replaced upon the footing in which it stood in 1792.

XIV. Those colonies, factories, and establishments, which are to be restored to His Most Christian Majesty by His Britannic Majesty or His Allies, in the Northern Seas, or in the Seas and on the Continents of America and Africa, shall be given up within the three months, and those which are beyond the Cape of Good Hope, within the six months which follow the ratification of the present Treaty.

XV. Antwerp shall for the future be solely a commercial port.

XVI. The high Contracting Parties, desirous to bury in entire oblivion the dissensions which have agitated Europe, declare and promise that no individual, of whatever rank or condition he may be, in the countries restored and ceded by the present Treaty shall be prosecuted, disturbed or molested, in his person or property, under any pretext whatsoever, either on account of his conduct or political opinions, his attachment either to any of the Contracting Parties, or to any Government which has ceased to exist, or for any other reason, except for debts contracted towards individuals, or acts posterior to the date of the present Treaty.

XVII. The native inhabitants and aliens, of whatever nation or condition they may be, in those countries which are to change Sovereigns, as well in virtue of the present Treaty as of the subsequent arrangements to which it may give rise, shall be allowed a period of six years, reckoning from the exchange of the ratifications, for the purpose of disposing of their property, if they think fit, whether it be acquired before or during the present war, and retiring to whatever country they may choose.

XVIII. The Allied Powers, desiring to offer His Most Christian Majesty a new proof of their anxiety to arrest, as far as in them lies, the bad consequences of the disastrous epoch fortunately terminated by the present peace, renounce all the sums which their governments claim from France, whether on account of contracts, supplies, or any other advances whatsoever to the French Government, during the different wars which have taken place since 1792.

His Most Christian Majesty, on His part, renounces every claim which He might bring forward against the Allied Powers on the same grounds. In execution of this Article, the high Contracting Parties engage reciprocally to deliver up all titles, obligations, and documents, which relate to the debts They may have mutually cancelled.

XIX. The French Government engages to liquidate and pay all debts it may be found to owe in countries beyond its own territory, on account of contracts, or other formal engagements between individuals or private establishments, and the French Authorities, as well for supplies, as in satisfaction of legal engagements.

XX. The high Contracting Parties, immediately after the exchange of the ratifications of the present Treaty, shall name commissioners to direct and superintend the execution of the whole of the stipulations contained in the 18th and 19th Articles. These Commissioners shall undertake the examination of the claims referred to in the preceding Article, the liquidation of the sums claimed, and the consideration of the manner in which the French Government may propose to pay them. They shall also be charged with the delivery of the titles, bonds, and the documents relating to the debts which the high Contracting Parties mutually cancel, so that the approval of the result of their labors shall complete that reciprocal renunciation.

XXI. The debts which in their origin were specially mortgaged upon the countries no longer belonging to France, or were contracted for the support of their internal administration, shall remain at the charge of the said countries. Such of those debts as have been converted into inscriptions in the great book of the public debt of France, shall accordingly be accounted for with the French Government after the 22d of December, 1813.

The deeds of all those debts which have been prepared for inscription, and have not yet been entered, shall be delivered to the Governments of the respective countries. The statement of all these debts shall be drawn up and settled by a joint commission.

XXII. The French Government shall remain charged with the reimbursement of all sums paid by the subjects of the said countries into the French coffers, whether under the denomination of surety, deposit, or consignment.

In like manner all French subjects, employed in the service of the said countries, who have paid sums under the denomination of surety, deposit, or consignment, into their respective territories, shall be faithfully reimbursed.

XXIII. The functionaries holding situations requiring securities, who are not charged with the expenditure of public money shall be reimbursed at Paris, with the interest, by fifths and by the year, dating from the signature of the present Treaty. With respect to those who are accountable, this reimbursement shall commence, at the latest, six months after the presentation of their accounts, except only in case of malversation. A copy of the last account shall be transmitted to the Government of their countries, to serve for their information and guidance.

XXIV. The judicial deposits and consignments upon the "*caisse d'amortissement*," in the execution of the law of 28 Nivose, year 13, (18 Jan. 1806,) and which belongs to the inhabitants of countries France ceases to possess, shall, within the space of one year from the exchange of the ratifications of the present Treaty, be placed in the hands of the Authorities of the said countries with the exception of those deposits and consignments interesting French subjects, which last will remain in the "*caisse d'amortissement*," and will only be given up on the production of the vouchers, resulting from the decision of competent authorities.

XXV. The funds deposited by the corporations and public establishments in the "*caisse de service*," and in the "*caisse d'amortissement*," or other "*caisse*," of the French Government, shall be reimbursed by fifths, payable from year to year, to commence from the date of the present Treaty; deducting the advances which have taken place, and subject to such regular charges as may have been brought forward against these funds by the creditors of said corporations, and the said public establishments.

XXVI. From the first day of January, 1814, the French Government shall cease to be charged with the payment of pensions, civil, military and ecclesiastical, pensions for retirement, and allowances for reduction, to any individual who shall cease to be a French subject.

XXVII. National domains acquired for valuable considerations by French subjects in the late departments of Belgium, and of the left bank of the Rhine, and the Alps beyond the ancient limits of France, and which now cease to belong to Her, shall be guaranteed to the purchasers.

XXVIII. The abolition of the "*droit d'Aubaine*," "*de Détraction*," and other duties of the same nature, in the countries which have been formerly incorporated, or which have reciprocally made that stipulation with France, shall be expressly maintained.

XXIX. The French Government engages to restore all bonds, and other deeds which may have been seized in the provinces occupied by the French armies or administrations; and in cases where such restitution cannot be effected, these bonds and deeds become and continue void.

XXX. The sums which shall be due for all works of public utility not yet finished, or finished after the 31st of December, 1812, whether on the Rhine or in the departments detached from France by the present Treaty, shall be placed to the account of the future possessors of the Territory, and shall be paid by the commission charged with the liquidation of the debts of that country.

XXXI. All archives, maps, plans and documents whatever, belonging to the ceded countries, or respecting their administration, shall be faithfully given up at the same time with the said countries: or if that should be impossible, within a period not exceeding six months after the cession of the countries themselves.

This stipulation applies to the archives, maps and plates, which may have been carried away from the countries during their temporary occupation by the different armies.

XXXIII. The present Treaty shall be ratified, and the ratifications shall be exchanged within the period of fifteen days, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed and affixed to it the seals of their arms.

Done at Paris, the 30th of May, in the year of our Lord, 1814.

(Signed) CASTLEREAGH, [L. S.] LE PRINCE DE BENEVENT, [L. S.]
 ABERDEEN, [L. S.]
 CATHCART, [L. S.]
 CHARLES STEWART, Lieut. Gen. [L. S.]

No. 8. *Additional Article to the Definitive Treaty between Great Britain and France. Signed at Paris, 20th November, 1815.*

The high Contracting Powers, sincerely desiring to give effect to the measures on which they deliberated at the Congress of Vienna, relative to the complete and universal abolition of the Slave Trade, and having, each in their respective dominions, prohibited, without restriction, their colonies and subjects from taking any part whatever in this traffic, engage to renew conjointly their efforts, with the view of securing final success to those principles which they proclaimed in the declaration of the 4th (8th) of February, 1815 and of concerting without loss of time, through their ministers at the Courts of London and of Paris, the most effectual measures for the entire and definitive abolition of a Commerce so odious and so strongly condemned by the laws of religion and nature.

The present Additional Article shall have the same force and effect as if it were inserted, word for word, in the Treaty signed this day. It shall be included in the ratification of the said Treaty.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereunto the seals of their arms.

Done at Paris, this 20th day of November, in the year of our Lord, 1815.

(Signed) CASTLEREAGH, [L. S.] Signed RICHELIEU, [L. S.]
WELLINGTON, [L. S.]

No. 9. *Imperial French Decree, abolishing the Slave Trade, 29th March, 1815. TRANSLATION.*

Napoleon, Emperor of the French. Our Ministers of State having been heard, we have decreed, and do decree as follows :

I. From the date of the publication of the present Decree, the trade in Negroes is abolished.

No vessel shall be permitted to fit out for this trade, either in the ports of France, or in those of our colonies.

II. There shall not be introduced, to be sold in our colonies, any Negro from this trade, whether it be French or foreign.

III. Any infraction of this Decree shall be punished by the confiscation of the ship and cargo, which shall be pronounced by our courts and tribunals.

IV The ship-owners, however, who, before the publication of the present Decree, shall have fitted out expeditions for the trade, may sell the produce in our colonies.

V. Our Ministers are charged with the execution of the present Decree.
At the Palace of the Tuileries, 29th March, 1815. NAPOLEON.

By the Emperor, the Minister Secretary of State.

THE DUKE OF BASSANO.

No. 10. *Convention of Commerce and Navigation between Great Britain and France. Signed at London, January 26, 1826.*

In the Name of the Most Holy Trinity.

His Majesty the King of the United Kingdom of Great Britain and Ireland, on the one part, and His Majesty the King of France and Navarre, on the other part, being equally animated by the desire of facilitating the commercial intercourse between their respective subjects; and being persuaded that nothing can more contribute to the fulfilment of their mutual wishes in this respect, than to simplify and equalize the regulations which are now in force relative to the navigation of both Kingdoms, by the reciprocal abrogation of all discriminating duties levied upon the vessels of either of the two nations in the ports of the other, whether under the head of duties of tonnage, harbour, light-house, pilotage, and others of the same description, or in the shape of increased duties upon goods on account of their being imported or exported in other than national vessels—have named as their Plenipotentiaries to conclude a Convention for this purpose, that is to say:—

His Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honourable George Canning, a Member of His said Majesty's Most Honourable Privy Council, a Member of Parliament, and His said Majesty's Principal Secretary of State for Foreign Affairs; and the Right Honourable William Huskisson, a Member of His said Majesty's Most Honourable Privy Council, a Member of Parliament, President of the Committee of Privy Council for Affairs of Trade and Foreign Plantations, and Treasurer of His said Majesty's Navy—

And His Majesty the King of France and Navarre, the Prince Jules, Count de Polignac, a Peer of France, Maréchal-de-Camp of His Most Christian Majesty's Forces, and His Ambassador at the Court of His Britannic Majesty, &c:—

Who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon and concluded the following Articles:

ART. 1. From and after the 5th of April of the present year, French vessels coming from or departing for the ports of France, or, if in ballast, coming from, or departing for any place, shall not be subject, in the ports of the United Kingdom, either on entering into, or departing from the same, to any higher duties or tonnage, harbour, light-house, pilotage, quarantine, or other similiar or corresponding duties, of whatever nature or under whatever denomination, than those to which British vessels, in respect of the same voyages are or may be subject, on entering into or departing from such ports; and, reciprocally, from and after the same period, British vessels coming from or departing for the ports of the United Kingdom, or, if in ballast, coming from or departing for any place, shall not be subject,

in the ports of France, either on entering into, or departing from the same, to any higher duties of tonnage, harbour, light-house, pilotage, quarantine, or other similar or corresponding duties, of whatever nature or under whatever denomination, than those to which French vessels, in respect of the same voyages, are or may be subject, on entering into or departing from such ports; whether such duties are collected separately, or are consolidated in one and the same duty;—His Most Christian Majesty reserving to himself to regulate the amount of such duty or duties in France, according to the rate at which they are or may be established in the United Kingdom: at the same time, with the view of diminishing the burthens imposed upon the navigation of the two Countries, His Most Christian Majesty will always be disposed to reduce the amount of the said burthens in France, in proportion to any reduction which may hereafter be made of those now levied in the ports of the United Kingdom.

II. Goods, wares and merchandize, which can or may be legally imported into the ports of the United Kingdom from the ports of France, if so imported in French vessels, shall be subject to no higher duties than if imported in British vessels, and, reciprocally, goods, wares, and merchandize, which can or may be legally imported into the ports of France, from the ports of the United Kingdom, if so imported in British vessels, shall be subject to no higher duties than if imported in French vessels. The produce of Asia, Africa, and America, not being allowed to be imported from the said countries, nor from any other, in French vessels, nor from France in French, British or any other vessels, into the ports of the United Kingdom for home consumption, but only for warehousing and re-exportation, His Most Christian Majesty reserves to himself to direct that, in like manner, the produce of Asia, Africa, and America, shall not be imported from the said countries, nor from any other, in British vessels, nor from the United Kingdom, in British, French, or any other vessels, into the ports of France, for the consumption of that Kingdom, but only for warehousing and re-exportation.

With regard to the productions of the countries of Europe, it is understood between the High Contracting Parties, that such productions shall not be imported, in British ships, into France, for the consumption of that Kingdom, unless such ships shall have been laden therewith in some port of the United Kingdom; and that His Britannic Majesty may adopt, if he shall think fit, some corresponding restrictive measure, with regard to the productions of the countries of Europe, imported into the ports of the United Kingdom in French vessels: the High Contracting Parties reserving, however, to themselves the power of making, by mutual consent, such relaxations in the strict execution of the present Article, as they may think useful to the respective interests of the two countries, upon the principle of mutual concessions, affording each to the other reciprocal or equivalent advantages.

III. All goods, wares, and merchandize, which can or may be legally exported from the ports of either of the two countries, shall, on their export, pay the same duties of exportation, whether the exportation of such goods, wares, and merchandize, be made in British or in French vessels provided the said vessels proceed, respectively, direct from the ports of the one country, to those of the other. And all the said goods, wares, and merchandize, so exported in British or French vessels, shall be reciprocally entitled to the same bounties, drawbacks, and other allowances of the same nature, which are granted by the regulations of each country, respectively.

IV. It is mutually agreed between the High Contracting Parties, that in the intercourse of navigation between their two countries, the vessels of any third power shall in no case, obtain more favourable conditions than those stipulated in the present Convention, in favour of British and French vessels.

V. The fishing-boats of either of the two countries, which may be forced by stress of weather to seek shelter in the ports, or on the coasts of the other country, shall not be subject to any duties or port charges, of any description whatsoever; provided the said boats; when so driven in by stress of weather, shall not discharge or receive on board any cargo, or portion of cargo, in the ports, or on the parts of the coasts where they shall have sought shelter.

VI. It is agreed that the provisions of the present Convention between the High Contracting Parties, shall be reciprocally extended and in force, in all the possessions subject to their respective dominion in Europe.

VII. The present Convention shall be in force for the term of 10 years from the 5th of April of the present year; and further, until the end of 12 months after either of the High Contracting Parties shall have given notice to the other of its intention to terminate its operation; each of the High Contracting Parties reserving to itself the right of giving such notice to the other at the end of the said term of 10 years: and it is agreed between them, that, at the end of the 12 month's extension agreed to on both sides, this Convention, and all the stipulations thereof, shall altogether cease and determine.

VIII. The present Convention shall be ratified, and the ratifications shall be exchanged in London, within the space of one month, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at London, the 26th day of January, in the year of our Lord 1826.

[L. S.] GEORGE CANNING.

[L. S.] LE PRINCE DE POLIGNAC.

[L. S.] WILLIAM HUSKISSON.

ADDITIONAL ARTICLE.

ART. I. From and after the 1st of October of the present year, French vessels shall be allowed to sail from any port whatever of the countries, under the dominion of His Most Christian Majesty, to all the colonies of the United Kingdom (except those possessed by the East India Company) and to import into the said colonies all kinds of merchandize, (being productions the growth or manufacture of France, or of any country under the dominion of France) with the exception of such as are prohibited to be imported into the said colonies, or are permitted to be imported only from countries under the British dominion: and the said French vessels, as well as the merchandize imported in the same, shall not be subject, in the colonies of the United Kingdom, to other or higher duties than those to which British vessels may be subject, on importing the same merchandize from any foreign country, or which are imposed upon the merchandize itself.

The same facilities shall be granted, reciprocally, in the colonies of France, with regard to the importation, in British vessels, of all kinds of merchandize, (being productions the growth and manufacture of the United Kingdom, or of any country under the British dominion) with the exception of such as are prohibited to be imported into the said colonies, or are permitted to be imported only from countries under the dominion of France. And whereas all goods, the produce of any foreign country may now be imported into the colonies of the United Kingdom, in the ships of that country, with the exception of a limited list of specified articles, which can only be imported into the said colonies in British ships, His Majesty the King of the United Kingdom reserves to himself the power of adding to the said list of excepted articles any other, the produce of the French dominions, the addition whereof may appear to His Majesty to be necessary for placing the commerce and navigation to be permitted to the subjects of each of the High Contracting Parties with the colonies of the other, upon a footing of fair reciprocity.

II. From and after the same period, French vessels shall be allowed to export from all the colonies of the United Kingdom, (except those possessed by the East India Company) all kinds of merchandize, which are not prohibited to be exported from such colonies in vessels other than those of Great Britain; and the said vessels, as well as the merchandize exported in the same, shall not be subject to other or higher duties than those to which British vessels may be subject, on exporting the said merchandize, or which are imposed upon the merchandize itself; and they shall be entitled to the same bounties, drawbacks, and other allowances of the same nature, to which British vessels would be entitled, on such exportation.

The same facilities and privileges shall be granted, reciprocally, in all the colonies of France, for the exportation, in British vessels, of all kinds

of merchandize, which are not prohibited to be exported from such colonies in vessels other than those of France.

These two Additional Articles shall have the same force and validity as if they were inserted word for word, in the Convention signed this day. They shall be ratified, and the ratifications shall be exchanged at the same time.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at London, the 26th day of January, in the year of our Lord 1826.

[L. S.] GEORGE CANNING.

[L. S.] LE PRINCE DE POLIGNAC.

[L. S.] WILLIAM HUSKISSON.

No. 11. *Extract from the Treaty of Navigation and Commerce, between Queen Ann. of Great Britain, and Lewis the XIV. King of France, concluded at Utrecht, the 11th of April, 1713.* [Omitted at page 144.]

XVII. It shall be lawful for all and singular the subjects of the Queen of Great Britain and of the most Christian King, to sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandizes laden thereon, from any port, to the places of those who are now, or shall be hereafter, at enmity with the Queen of Great Britain, or the most Christian King; it shall likewise be lawful for the subjects and inhabitants aforesaid to sail with the ships and merchandizes aforementioned, and to trade with the same liberty and security from the places, ports, and havens of those who are enemies of both, or of either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy aforementioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same Prince, or under several. And as it is now stipulated concerning ships and goods, that *free ships shall also give a freedom to goods*, and that every thing shall be deemed to be free and exempt which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading, or any part thereof, should appertain to the enemies of either of their Majesties, contraband goods being always excepted, on the discovery whereof, matters shall be managed according to the sense of the subsequent articles; it is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that although they be enemies to both, or to either party, they are not to be taken out of that free ship, unless they are soldiers, and in actual service of the enemies.

XVIII. This liberty of navigation and commerce shall extend to all kinds of merchandizes, excepting those only which follow in the next article, and which are signified by the name of Contraband:

XIX. Under this name of contraband, or prohibited goods, shall be comprehended arms, great guns, bombs, with their fusees and other things belonging to them; fire-balls, gunpowder, match, cannon ball, pikes swords, lances, spears, halberds, mortars, petards, granadoes, salt petre, musket-ball, helmets, head-pieces, breast-plates, coats of mail, and the like kinds of arms proper for arming soldiers, musket-rests, belts, horses with their furniture, and all other warlike instruments whatever.

XX. These merchandizes which follow shall not be reckoned among prohibited goods; that is to say, all sorts of cloths, and all other manufactures woven of any wool, flax, silk, cotton, or any other materials whatever; all kinds of cloaths and wearing-apparel, together with the species whereof they are used to be made; gold and silver, as well coined as uncoined, tin, iron, lead, copper, brass, coals; as also wheat and barley, and any other kind of corn and pulse; tobacco, and likewise all manner of spices, salted and smoked flesh, salted fish, cheese and butter, beer, oils, wines, sugars, and all sorts of salt, and, in general, all provisions which serve for the nourishment of mankind and sustenance of life. Furthermore, all kinds of cotton, hemp, flax, tar, pitch, ropes, cables, sails, sail-cloth, anchors, and any parts of anchors; also shipmasts, planks, boards, and beams, of what trees soever; and all other things proper either for building or repairing ships; and all other goods whatever, which have not been worked into the form of any instrument or thing prepared for war, by land or by sea, shall not be reputed contraband, much less such as have been already wrought and made up for any other use; all which shall wholly be reckoned among free goods, as likewise all other merchandizes and things which are not comprehended and particularly mentioned in the preceding article, so that they may be transported and carried, in the freest manner, by the subjects of both confederates, even to places belonging to an enemy, such towns or places being only excepted as are at that time besieged, blocked up round about, or invested.

No. 12. *British Order in Council, granting to French Vessels certain Privileges of Trading with the British Possessions in the West Indies and America.*

At the Court at Carlton-House, the 1st of June, 1826. Present, the King's Most Excellent Majesty in Council.

Whereas by a certain Act of Parliament passed in the 6th year of the reign of His present Majesty, (Cap. 114) intituled "An Act to regulate the trade of the British possessions abroad," after reciting that "By the law of navigation, foreign ships are permitted to import into any of the British possessions abroad, from the countries, to which they belong, goods, the produce of those countries, and to export goods from such possessions, to be carried to any foreign country whatever; and that it is expedient that such permission should be subject to certain conditions;" it is enacted

“That the privileges thereby granted to foreign ships shall be limited to the ships of those countries which, having colonial possessions, shall grant the like privileges of trading with those possessions to British ships; unless His Majesty, by His Order in Council, shall, in any case deem it expedient to grant the whole, or any of such privileges to the ships of any foreign country, although the conditions aforesaid shall not, in all respects, be fulfilled by such foreign country.” And whereas the conditions mentioned and referred to in and by the said Act of Parliament, have not in all respects been fulfilled by the Government of France; but nevertheless His Majesty, by and with the advice of His Privy Council, doth deem it expedient to grant certain of the privileges aforesaid to the ships of France; His Majesty doth therefore, by and with the advice of His Privy Council, and in pursuance and exercise of the powers and authority in him vested by the said Act of Parliament, declare and grant, that it shall and may be lawful for French ships to import into any of the British possessions in the West Indies and America, from the dominions of His Most Christian Majesty, such goods being the produce of those dominions as are mentioned and enumerated in the table subjoined to this present Order, and to export goods from such British possessions, to be carried to any foreign country whatever:

And the Right Honourable the Lords Commissioners of His Majesty's Treasury, and the Right Honourable Earl Bathurst, one of His Majesty's Principal Secretaries of State, are to give the necessary directions herein as to them may respectively appertain.

JAS. BULLER.

Table referred to in the preceding Order:—

Wheat, flour, biscuit, bread, meal, peas, beans, rye, callavances, oats, barley, indian corn, rice, shingles, red oak staves or headings, white oak staves or headings, wood, lumber, wood-hoops, live stock, hay and straw, coin and bullion, diamonds, salt, fruit and vegetables fresh, cotton wool.

All articles subject, on importation, to a duty *ad valorem*; and on which articles the amount of such duty shall not, at the time of importation, exceed £7. 10s. for every £100 of the value of the same.

No. 13. *An Act to amend an act of the sixth year of his late Majesty, to regulate the Trade of the British possessions abroad. (22d April, 1831.)*

Anno Primo Gulielmi IV. Regis. Cap. XXIV.

Whereas, by an act passed in the sixth year of His late Majesty's reign, intituled, *An Act to regulate the Trade of the British Possessions abroad*, and by subsequent acts made and passed to alter and amend the said act, certain duties of customs are imposed on articles of foreign production when imported or brought into the *British Possessions in America*: And whereas it is expedient to repeal some of the said duties, and to alter or vary others of them: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, That from and after the fifteenth day of *April*,

one thousand eight hundred and thirty-one, so much of the said acts as imposes any duty in any of the *British Possessions in America*, upon the importation or bringing in of corn or grain unground, or of meal or flour not made of wheat, or of bread or biscuit, or of rice, or of live stock, shall be and the same is hereby repealed.

II. *And be it further enacted*, That so much of any of the said acts as imposes any duty in the provinces of *Upper or Lower Canada* upon the importation or bringing in of wheat flour, or of beef, pork, hams or bacon, or of wood or lumber, shall be and the same is hereby repealed.

III. *And be it further enacted*, That so much of any of the said Acts as imposes any duty, in *New Brunswick, Nova Scotia, or Prince Edward's Island*, upon wood or lumber, shall be and the same is hereby repealed.

IV. *And be it further enacted*, That so much of any of the said as imposes any duty, in the *British possessions on the Continent of South America*, or in the *West Indies*, or in the *Bahama or Bermuda Islands*, upon wheat flour, or upon beef, pork, hams, or bacon, or upon wood or lumber, when imported from any of the *British possessions in North America*, shall be and the same is hereby repealed.

V. *And be it further enacted*. That upon the importation from any foreign country into the *British possessions on the Continent of South America*, or in the *West Indies*, or in the *Bahama or Bermuda Islands*, of the articles mentioned in the following table, there shall be raised, collected, and paid unto His Majesty, the several temporary additional duties as the same are set forth in the said table (that is to say;)

TABLE OF ADDITIONAL DUTIES.

Staves and headings, until the first day of January, 1834—the 1000,	£0	11	5
On and from the first of January, 1834, to the first day of January, 1836, the 1000,	0	7	3
White or yellow pine lumber, until the first day of January, 1834—the 1000 feet of one inch thick.	0	7	0
On and from the first day of January, 1834, to the first day of January, 1836, the 1000 feet of one inch thick.	0	5	0

VI. *And be it further enacted*, That the duties imposed by this Act shall be raised, levied, collected, and paid unto His Majesty in like manner as if such duties had been imposed by the said first-mentioned Act, and had been set forth in the Table of duties therein contained.

No. 14. *Act of the British Parliament*, “to regulate the Trade of the *British Possessions Abroad*.” [5th July, 1825.]

XXXII. *And be it further enacted*. That the same tonnage duties shall be paid upon all vessels or boats of the *United States of America*, importing any goods into either of the *Provinces of Upper or Lower Canada*, as are, or may be for the time being, payable in the *United States of America*, on *British vessels or boats* entering the harbours of the State from whence such goods shall have been imported.

No. 15. *Act of the British Parliament. relating to the Fisheries carried on upon the Banks and Shores of Newfoundland.* [3d June, 1824.]

II. *And be it further enacted,* That no alien, or stranger whatsoever shall at any time hereafter take bait, or use any sort of fishing whatsoever in Newfoundland, or the coasts, bays, or rivers, thereof, or on the coast of Labrador, or in any of the islands or places within or dependant upon the Government of the said Colony; always excepting the rights and privileges granted by Treaty to the subjects or citizens of any foreign State or Power in amity with His Majesty.

XII. *And be it further enacted.* That it shall and may be lawful for His Majesty, his heirs, and successors, by advice of his or their Council, from time to time to give such orders and instructions to the Governor of Newfoundland, or to any officer or officers on that station, as he or they shall deem proper and necessary to fulfil the purposes of any Treaty or Treaties now in force between His Majesty and any foreign State or Power; and in case it shall be necessary to that end, to give orders and instructions to the Governor or other officer or officers aforesaid, to remove or caused to be removed any stages, flakes, train-fats, or other works whatever, for the purpose of carrying on the fishery, erected by His Majesty's subjects on that part of the coast of Newfoundland which lies between Cape Saint John, passing to the north, and descending to the western coast of the said island to the place called Cape Raye, and also all ships, vessels, and boats, belonging to His Majesty's subjects which shall be found within the limits aforesaid, and also in case of refusal to depart from within the limits aforesaid, to compel any of His Majesty's subjects to depart from thence; any law, custom, or usage to the contrary notwithstanding.

XIII. *And be it further enacted.* That if any person or persons shall refuse, upon requisition made by the Governor, or any officer or officers acting under him in pursuance of His Majesty's orders and instructions as aforesaid, to depart from within the limits aforesaid, or otherwise to conform to such requisitions and directions as such Governor or other officer as aforesaid shall make or give for the purposes aforesaid, every such person or persons so refusing or otherwise offending against the same, shall forfeit the sum of 50 pounds sterling money. Provided always, that every such suit or prosecution, if the same be commenced in Newfoundland, shall be commenced within one year; and if commenced in any of His Majesty's Courts of Record at Westminster, within 2 years from the time of the commission of such offence.

XVIII. *And be it further enacted.* That this Act shall continue and be in force for 5 years, and from thence until the end of the then next session of Parliament.

No. 16. *Act of the British Parliament, "for regulating the Trade with the British Possessions in India by the Ships of Nations in amity with His Majesty *"* [19th July 1797.]

Whereas by an Act passed in the 12th year of the reign of His late Majesty King Charles II. [Cap. 18.] intitled "An Act for the encouraging and increasing of Shipping and Navigation," it was enacted, that from and after the 1st day of December, 1660, and from thenceforward, no goods or commodities shall be imported into or exported out of any lauds, islands, plantations, or territories, to His Majesty belonging or in his possession, or which may hereafter belong unto or be in the possession of His Majesty, his heirs and successors, in Asia, Africa, and America, in any other ship or ships, vessel or vessels, than such as do truly and without fraud belong unto the people of England or Ireland, dominion of Wales, or town of Berwick-upon Tweed, or are the built of and belonging to any of the said lands, islands, plantations, or territories, as the proprietors and right owners thereof, and whereof the master and three fourths of the mariners at least are English, under certain penalties and forfeitures therein mentioned: And whereas it is expedient that the ships and vessels of countries and states in amity with His Majesty should be allowed to import goods and commodities unto and to export the same from the British territories in India, subject to certain restrictions and regulations; be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act, and during the continuance of the exclusive trade of the United Company of Merchants of England trading to the East Indies, and during the term for which the possessions of the British territories in India is secured to the said United Company, it shall and may be lawful for the ships and vessels of countries and states in amity with His Majesty to import into and export from the British possessions in India, such goods and commodities as they shall be permitted to import into and export from the said possessions by the directors of the said company, who are hereby directed to frame such regulations for carrying on the trade to and from the said possessions, and the countries and states in amity with His Majesty, as shall seem to them most conducive to the interest and prosperity of the said British possessions in India, and of the British Empire; and no ship or vessel belonging to any of the subjects of states or countries in amity with His Majesty shall be liable to seizure, confiscation, or forfeiture; or other penalty, for exporting from or importing into the said British possessions in India any goods or commodities, the importation or exportation of which respectively shall be permitted by the said regulations; any thing in the said herein before recited Act of the 12th

* Cited as unrepealed in Act 7 and 8, Geo. 4, Cap. 74. July 2d, 1817.

year of the reign of King Charles II. to the contrary notwithstanding: provided always, that it shall not be lawful for the directors of the said United Company to frame any regulations for the conduct of the said trade, which shall be inconsistent with any Treaty or Treaties which shall have been or may be entered into by His Majesty, his heirs and successors, and any country or state at amity with His Majesty, or which may be inconsistent with any Act or Acts of Parliament which have been passed for the regulation of the trade and commerce of the said British territories in India.

II. *And be it further enacted*, That all such regulations as shall be framed by the said court of directors, for carrying on the trade to and from the British possessions in India, and the countries and states in amity with His Majesty, shall be and they are hereby directed to be subject to the superintendance, direction, and control of the board of commissioners for the affairs of India, in the same manner as all acts, operations, and concerns, which anywise relate to or concern the civil and military Governments and revenues of the British territories and acquisitions in the East Indies, now are.

III. *And be further enacted*, That it shall not be lawful for any General Court of Proprietors to alter or change, or to direct or order or authorize the altering or changing, any resolution of the Court Directors, or to rescind, revoke, suspend, or vary the same, in so far as the same relates to the intercourse of Foreign nations in amity with His Majesty and the British territories in India.

No. 17. *Treaty of Peace, between Great Britain and Denmark. Signed at Kiel. 14th January, 1814.*

EXTRACT. (*Translation, as laid before Parliament.*)

I. From the moment of the signature of the present Treaty, there shall be peace and friendship between their Majesties the King of the United Kingdom of Great Britain and Ireland, and the King of Denmark, and between their respective Kingdoms, States, and subjects, in all parts of the world. All hostilities between them shall cease, and all prizes taken from the subjects of the respective nations shall be considered as null from the day of the signature of the present Treaty and shall be restored on both sides to their respective owners.

II. The respective prisoners of war shall, immediately after the ratification of the present Treaty, be restored, *en masse*, on payment, on both sides, of the private debts which they shall have contracted.

III. His Majesty the King of the United Kingdom of Great Britain and Ireland consents to restore to His Danish Majesty all the possessions and colonies which have been conquered by the British arms in this present war, except the Island of Heligoland, which His Britannic Majesty reserves to Himself with full and unlimited sovereignty.

* IV. The restoring of the colonies shall be performed according to the same rules and principles which were laid down when His Britannic Majesty gave up to His Danish Majesty these same colonies in the year 1801.— With regard to the island of Anholt, it is agreed that it shall be given back one month after the ratification of the present Treaty, unless the season and the difficulty of navigation should present insurmountable obstacles.

VII. The commercial relations between the subjects of the high Contracting Parties shall again return to the usual order, as existing before the present war began.† They moreover reciprocally agree to adopt measures, as soon as possible, for giving the same greater force and extent.

VIII. His Majesty the King of the United Kingdom of Great Britain and Ireland, and the British nation, being extremely desirous of totally abolishing the Slave Trade, the King of Denmark engages to co-operate with His said Majesty for the completion of so beneficent a work, and to prohibit all His subjects, in the most effectual manner, and by the most solemn laws, from taking any share in such trade.

XI. The sequestrations which have been laid, by either of the Contracting Parties, on property not already confiscated or condemned, shall be raised immediately after the ratification of this Treaty.

XII. His Majesty the King of Sweden having engaged, by Article VI. of the Treaty of Alliance with his Britannic Majesty, concluded at Stockholm, the 3d of March, 1813, to grant for a period of twenty years, to be computed from the exchange of the ratifications of the said Treaty,‡ to the subjects of His Britannic Majesty, the privileges of *dépôt* in the port of Stralsund of all articles being the growth or manufacture of Great Britain, or of her colonies, laden on board of British or Swedish vessels, on paying a duty of one per cent. ad valorem, on such articles and merchandise, on import and export; His Majesty the King of Denmark promises to fulfil, in His new character of Sovereign of Swedish Pomerania, the said stipulation, by substituting Danish for Swedish bottoms.

XIII. All the ancient Treaties of Peace and Commerce between the former Sovereigns of England and Denmark are hereby renewed in their full extent, so far as they are not contradictory to the stipulations of the present treaty.

Done at Kiel, the 14th January, 1814.

Signed.

EDWARD THORNTON, [L. s.] EDMUND BOURKE, [L. s.]

* Excepted in the British Negotiation.

† 1807.

‡ Ratifications exchanged at Stockholm, 7th April, 1813.

No. 18. *Convention between Great Britain and the Netherlands. Signed at London, August 13, 1814.*

In the name of the Most Holy and Undivided Trinity.

The United Provinces of the Netherlands, under the favor of Divine Providence, having been restored to their independence, and having been placed by the loyalty of the Dutch people and the achievements of the Allied Powers under the Government of the Illustrious House of Orange: and His Britannic Majesty being desirous of entering into such arrangements with the Prince Sovereign of the United Netherlands, concerning the Colonies of the said United Netherlands, which have been conquered by His Majesty's arms during the late war, as may conduce to the prosperity of the said States, and may afford a lasting testimony of His Majesty's friendship and attachment to the family of Orange, and to the Dutch nation: the said high Contracting Parties, equally animated by those sentiments of cordial good will and attachment to each other, have nominated Their Plenipotentiaries: namely, His Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honorable Robert Stewart, Viscount Castlereagh, one of His said Majesty's Most Honorable Privy Council; a Member of Parliament, Colonel of the Londonderry Regiment of Militia, Knight of the Most Noble Order of the Garter, and His Principal Secretary of State for Foreign Affairs, &c. &c.: and His Royal Highness the Prince of Orange-Nassau, Prince Sovereign of the United Netherlands, His Excellency Henry Fagel, His Ambassador Extraordinary and Plenipotentiary at the Court of His Britannic Majesty:—who, after having exchanged their full Powers, found in good and due form, have agreed to the following Articles:

I. His Britannic Majesty engages to restore to the Prince Sovereign of the United Netherlands, within the term which shall be hereafter fixed, the Colonies, Factories, and establishments which were possessed by Holland at the commencement of the late war, viz. on the 1st of January, 1803, in the Seas and on the Continents of America, Africa and Asia; with the exception of the Cape of Good Hope and the Settlements of Demerara, Essequibo, and Berbice of which possessions the high Contracting Parties reserve to Themselves the right to dispose by a Supplementary Convention, hereafter to be negotiated according to Their mutual interests, and especially with reference to the provisions contained in the 6th and 9th Articles of the Treaty of Peace signed between His Britannic Majesty and His Most Christian Majesty on the 30th of May, 1814.*

II. His Britannic Majesty agrees to cede in full Sovereignty the Island of Banca, in the Eastern Seas, to the Prince Sovereign of the Netherlands, in exchange for the Settlement of Cochin and its dependencies on the coast of Malabar, which is to remain in full Sovereignty to his Britannic Majesty.

III. The places and forts in the Colonies and Settlements, which, by virtue of the two preceding Articles, are to be ceded and exchanged by the

* See page 147.

two high Contracting Parties, shall be given up in the state in which they may be at the moment of the signature of the present Convention.

IV. His Britannic Majesty guarantees to the subjects of His Royal Highness the Prince Sovereign of the United Netherlands, the same facilities, privileges; and protection, with respect to commerce and the security of their persons and property within the limits of the British Sovereignty on the Continent of India, as are now or shall be granted to the most favored nations.

His Royal Highness the Prince Sovereign, on His part, having nothing more at heart than the perpetual duration of peace between the Crown of England and the United Netherlands, and wishing to do his utmost to avoid any thing which might affect their mutual good understanding, engages not to erect any fortifications in the Establishments which are to be restored to Him within the limits of the British Sovereignty upon Continent of India, and only to place in those establishments the number of troops necessary for the maintenance of the police.

V. Those colonies, factories, and establishments, which are to be ceded to His Royal Highness the Prince Sovereign of the United Netherlands by His Britannic Majesty, in the Seas or on the Continent of America, shall be given up within three months, and those which are beyond the Cape of Good Hope within the six months which follow the ratification of the present Convention.

VI. The high Contracting Parties, desirous to bury in entire oblivion the dissensions which have agitated Europe, declare and promise, that no individual, of whatever rank or condition he may be, in the countries restored and ceded by the present Treaty, shall be prosecuted, disturbed, or molested in his person or property, under any pretext whatsoever either on account of his conduct or political opinions, his attachment either to any of the Contracting Parties, or to any Government which has ceased to exist, or for any other reason except for debts contracted towards individuals, or acts posterior to the date of the present Treaty.

VII. The native inhabitants and aliens, of whatever nation or condition they may be, in those countries which are to change Sovereigns, as well in virtue of the present Convention as of the subsequent arrangements to which it may give rise, shall be allowed a period of six years, reckoning from the exchange of the ratifications for the purpose of disposing of their property, if they think fit, whether it be acquired before or during the late war, and retiring to whatever country they may choose.

VIII. The Prince Sovereign of the United Netherlands, anxious to cooperate, in the most effectual manner, with His Majesty the King of the United Kingdom of Great Britain and Ireland, so as to bring about the total abolition of the trade in slaves on the coast of Africa, and having spontaneously issued a Decree dated the 15th of June 1814, wherein it is

enjoined, that no ships or vessels whatsoever, destined for the trade in slaves, be cleared out or equipped in any of the harbours or places of His Dominions, nor admitted to the forts or possessions on the coasts of Guinea, and that no inhabitants of that country shall be sold or exported as slaves, —does moreover hereby engage to prohibit all His subjects, in the most effectual manner and by the most solemn laws, from taking any share whatsoever in such inhuman traffic.

IX. The present Convention shall be ratified, and the ratifications shall be duly exchanged at London within three weeks from date thereof, or sooner if possible.

In witness whereof, we the undersigned Plenipotentiaries, in virtue of our respective full Powers, have signed the present Convention, and have affixed thereto the seals of our arms.

Done at London, this 13th day of August, 1814.

Signed CASTLEREAGH, [L. S.]

H. FAGEL, [L. S.]

ADDITIONAL ARTICLES.

I. In order the better to provide for the defence and incorporation of the Belgic Provinces with Holland, and also to provide, in conformity to Article IX of the Treaty of Paris, a suitable compensation for the rights ceded by His Swedish Majesty under the said Article, which compensation, it is understood, in the event of the above reunion, Holland should be liable to furnish, in pursuance of the above stipulations; it is hereby agreed between the high Contracting Parties, that His Britannic Majesty shall take upon Himself, and engage to defray the following charges:

1st. The payment of 1,000,000 sterling to Sweden, in satisfaction of the claims aforesaid, and in pursuance of a Convention this day executed with His Swedish Majesty's Plenipotentiary to that effect, (a copy of which Convention is annexed to these Additional Articles.)

2dly. The advance of 2,000,000 sterling, to be applied, in concert with the Prince Sovereign of the Netherlands, and in aid of an equal sum to be furnished by Him towards augmenting and improving the defences of the Low Countries.

3dly. To bear, equally with Holland, such farther charges as may be agreed upon between the said high Contracting Parties and their Allies, towards the final act satisfactory settlement of the Low Countries in union with Holland, and under the dominion of the House of Orange, not exceeding, in whole, the sum 3,000,000 sterling, to be defrayed by Great Britain.

In consideration, and satisfaction of the above engagements, as taken by His Britannic Majesty, the Prince Sovereign of the Netherlands agrees to cede in full Sovereignty to His Britannic Majesty, the Cape of Good Hope, and the Settlements of Demerara, Essequibo and Berbice, upon the condi-

tion nevertheless, that the subjects of the said Sovereign Prince, being proprietors in the said Colonies or Settlements, shall be at liberty (under such regulations as may hereafter be agreed upon in a Supplementary Convention) to carry on trade between the said Settlements and the Territories in Europe of the said Sovereign Prince.

It is also agreed between the two high Contracting Parties, that the ships of every kind belonging to Holland, shall have permission to resort freely to the Cape of Good Hope for the purposes of refreshment and repairs, without being liable to other charges than such as British subjects are required to pay.

II. The small district of Bernagore, situated close to Calcutta, being requisite to the due preservation of the peace and police of that city, the Prince of Orange agrees to cede the said district to His Britannic Majesty, upon a payment of such sum annually to His Royal Highness as may be considered, by Commissioners to be appointed by the respective Governments, to be just and reasonable, with reference to the profits or revenue usually derived by the Dutch Government from the same.

III. The present Additional Articles shall have the same force and validity as if they were inserted word for word in the Convention signed this day. They shall be ratified, and the ratifications shall be exchanged at the same time and place.

In witness whereof, we, the undersigned Plenipotentiaries have signed, and affixed to them the seals of our arms.

Done at London, this 13th day of August, 1814.

Signed CASTLEREAGH, [L. S.]

H. FAGEL, [L. S.]

No. 19. *Treaty between Great Britain and the Netherlands. Signed at the Hague. May 4th. 1818.*

In the Name of the Most Holy Trinity.

His Majesty the King of the United Kingdom of Great Britain and Ireland, and His Majesty the King of the Netherlands, animated with a mutual desire to adopt the most effectual measures for putting a stop to the carrying on of the Slave Trade by their respective subjects, and for preventing their respective flags from being made use of as a protection to this nefarious traffic, by the people of other countries who may engage therein, their said Majesties have accordingly resolved to proceed to the arrangement of a Convention for the attainment of their objects, and have therefore named as Plenipotentiaries, *ad hoc*.

His Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honorable Richard Earl of Clancarty, Viscount Dunlo, &c. &c. &c. Ambassador Extraordinary and Plenipotentiary of His said Majesty to His Majesty the King of the Netherlands, Grand Duke of Luxembourg; and His Majesty the King of the Netherlands, Anne William Charles Baron de Nagell d'Ampseu, Member of the Body of Nobles of the Province of

Guelderland, &c. &c. &c. who, having exchanged their full Powers, found in good and due form, have agreed on the following Articles :

I. The laws of the United Kingdom of Great Britain and Ireland rendering it already highly penal for the subjects of His Britannic Majesty to carry on, or to be in any way engaged in trade in Slaves, His Majesty the King of the Netherlands, referring to the 8th Article of the Convention entered into with His Britannic Majesty on the 13th August 1814, engages in pursuance thereof, and within eight months from the ratification of these presents, or sooner if possible, to prohibit all His subjects, in the most effectual manner, and especially by penal law the most formal, to take any part whatever in the Trade of Slaves; and in the event of the measures already taken by the British Government, and to be taken by that of the Netherlands, be found ineffectual or insufficient, the high Contracting Parties mutually engage to adopt such further measures, whether by legal provision or otherwise, as may from time to time appear to be best calculated, in the most effectual manner, to prevent all their respective subjects from taking any share whatever in the nefarious traffic.

II. The two high Contracting Parties, for the more complete attainment of the object of preventing all traffic in Slaves, on the part of their respective subjects, mutually consent that the ships of their Royal Navies, which shall be provided with special instructions for this purpose, as hereinafter mentioned, may visit such merchant vessels of the two nations, as may be suspected, upon reasonable grounds, of having Slaves on board for an illicit traffic; and in the event only of their finding such Slaves on board, may detain and bring away such vessels, in order that they may be brought to trial before the tribunals established for this purpose, as shall hereinafter be specified :

III. In the intention of explaining the mode of execution of the preceding Article it is agreed:

1st. That such reciprocal right of visit and detention shall not be exercised within the Mediterranean Sea, or within the Seas in Europe lying without the Straits of Gibraltar, and which lie to the northward of the thirty-seventh parallel of north latitude, and also within, and to the eastward of the meridian of longitude twenty degrees west of Greenwich.

2d. That the names of the several vessels furnished with such Instructions, the force of each, and the names of their several Commanders shall be, from time to time, immediately upon their issue, communicated by the Power issuing the same to the other high Contracting Party.

3d. That the number of ships of each of the Royal Navies authorized to make such visit as aforesaid, shall not exceed the number of twelve, belonging to either of the high Contracting Parties, without the special consent of the other high Contracting Party being first had and obtained

4th. That if at any time it should be deemed expedient that any ship of the

Royal Navy of either of the two high Contracting Parties, authorized to make such visit as aforesaid, should proceed to visit any merchant ship or ships under the flag, and proceeding under the convoy of any vessel or vessels of the Royal Navy of the high Contracting Party, and the Commanding Officer of the ship duly authorized and instructed to make such visit, shall proceed to effect the same in communication with the Commanding Officer of the convoy, who, it is hereby agreed, shall give every facility to such visit, and to the eventual detainer of the merchant ship or ships so visited, and in all things assist to the utmost of his power in the due execution of the present Convention, according to the true intent and meaning thereof.

5th. It is further mutually agreed, that the Commanders of the ships of the two Royal Navies, who shall be employed on this service, shall adhere strictly to the exact tenor of the Instructions which they shall receive for this purpose.

IV. As the two preceding Articles are entirely reciprocal, the two high Contracting Parties engage mutually to make good any losses which their respective subjects may incur unjustly, by the arbitrary and illegal detention of their vessels; it being understood that this indemnity shall invariably be borne by the Government whose cruisers shall have been guilty of the arbitrary detention; and that the visit and detention of ships specified in this Article shall only be effected by those British or Netherland vessels which may form part of the two Royal Navies, and by those only of such vessels which are provided with the special Instructions annexed to the present Treaty, in pursuance of the provisions thereof.

V. No British or Netherland cruizer shall detain any ship whatever not having Slaves actually on board; and in order to render lawful the detention of any ship, whether British or Netherland, the Slaves found on board such vessel must have been brought there for the express purpose of the traffic.

VI. All ships of the Royal Navies of the two nations, which shall hereafter be destined to prevent the traffic in Slaves, shall be furnished by their respective Governments with a copy of the Instructions annexed to the present Treaty, and which shall be considered as an integral part thereof.

These Instructions shall be written in the Dutch and English languages, and signed for the vessels of each of the two Powers, by the Minister of their respective marine.

The two high Contracting Parties reserve the faculty of altering the said instructions, in whole or in part, according to circumstances; it being, however, well understood, that the said alterations cannot take place but by the common agreement, and by the consent of the two high Contracting Parties.

VII. In order to bring to adjudication, with the least delay and inconvenience, the vessels which may be detained for having been engaged in a traffic of Slaves, according to the tenor of the Fifth Article of this Treaty,

there shall be established, within the space of a year at furthest from the exchange of the ratifications of the treaty, two mixed Courts of Justice, formed of an equal number of individuals of the two nations, named for this purpose by their respective Sovereigns.

These Courts shall reside—one in a possession belonging to His Britannic Majesty, the other within the territories of His Majesty the King of the Netherlands; and the two Governments, at the period of the exchange of the ratifications of the present Treaty, shall declare, each for its own dominions, in what places the Court shall respectfully reside. Each of the two high Contracting Parties reserving to itself the right of changing, at its pleasure, the place of residence of the Court held within its own dominions; provided, however, that one of the two Courts shall always be held upon the coast of Africa, and the other in one of the colonial possessions of His Majesty the King of the Netherlands.

These Courts shall judge the Causes submitted to them according to the terms of the present Treaty, without appeal, and according to the Regulations and Instructions annexed to the present Treaty, of which they shall be considered as an integral part.

VIII. In case the Commanding Officer of any of the ships of the Royal Navies of Great Britain, and the Netherlands, commissioned under the Second Article of this Treaty, shall deviate in any respect from the dispositions of the said Treaty, and shall not be enabled to justify himself, either by the tenor of the said treaty, or of the instructions annexed to it; the Government which shall conceive itself to be wronged by such conduct, shall be entitled to demand reparation, and in such case the Government, to which the captor may belong, binds itself to cause enquiry to be made into the subject of the complaint, and to inflict upon the captor, if he be found to deserve it, a punishment proportioned to the transgression which may have been committed.

In witness whereof the respective Plenipotentiaries have signed the same, and thereunto affixed the seals of their arms.

Done at the Hague, the 4th day of May, in the year our Lord, 1818.

Signed CLANCARTY, [L. S.] A. W. C. DE NAGELL, [L. S.]
VAN MAANEN, [L. S.]

RUSSIA.

No. 20. *Convention between Great Britain and Russia. Signed at St. Petersburg, February 28, 1825. [Navigation, &c. on the Pacific Ocean]* TRANSLATION.

In the Name of the Most Holy and Undivided Trinity.

His Majesty the King of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of all the Russias, being desirous of drawing still closer the ties of good understanding and friendship which unite them, by means of an agreement which may settle, upon the basis of reciprocal convenience, different points connected with the commerce, navigation, and fisheries, of their subjects on the Pacific ocean, as well as the

limits of their respective possessions on the north-west coast of America, have named Plenipotentiaries to conclude a Convention for this purpose, that is to say:—His Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honorable Stratford Canning, a Member of His said Majesty's Most Honorable Privy Council, &c. and His Majesty the Emperor of all the Russias, the Sieur Charles Robert Count de Nesselrode, His Imperial Majesty's Privy Councillor, a Member of the Council of the Empire, Secretary of State for the Department of Foreign Affairs, &c. and the Sieur Pierre de Poletica, His Imperial Majesty's Councillor of State, &c.—Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and signed the following Articles:

ART. I. It is agreed that the respective subjects of the High Contracting Parties shall not be troubled or molested, in any part of the ocean, commonly called the Pacific ocean, either in navigating the same, in fishing therein, or in landing at such parts of the coast as shall not have been already occupied, in order to trade with the natives, under the restrictions and conditions specified in the following Articles:

II. In order to prevent the right of navigating and fishing, exercised upon the ocean by the subjects of the High Contracting Parties from becoming the pretext for an illicit commerce, it is agreed that the subjects of His Britannic Majesty shall not land at any place where there may be a Russian establishment, without the permission of the Governor or Commandant; and, on the other hand, that Russian subjects shall not land, without permission, at any British establishment, on the north-west coast.

III. The line of demarcation between the possessions of the High Contracting Parties, upon the coast of the Continent, and the islands of America to the north west shall be drawn in the manner following:—

Commencing from the southernmost point of the island called Prince of Wales island, which point lies in the parallel of 54 degrees 40 minutes, north latitude, and between the 131st and the 133d degree of west longitude (meridian of Greenwich,) the said line shall ascend to the north along the channel called Portland Channel, as far as the point of the continent where it strikes the 56th degree of north latitude; from this last mentioned point, the line of demarcation shall follow the summit of the mountains situated parallel to the coast as far as the point of intersection of the 141st degree of west longitude (of the same meridian;) and, finally, from the said point of intersection, the said meridian line of the 141st degree, in its prolongation as far as the Frozen ocean, shall form the limit between the Russian and British possessions on the continent of America to the north west.

IV. With reference to the line of demarcation laid down in the preceding Article it is understood:

1st. That the island called Prince of Wales Island shall belong wholly to Russia.

2d. That whenever the summit of the mountains which extend in a direction parallel to the coast, from the 56th degree of north latitude to the point of intersection of the 141st degree of west longitude shall prove to be at the distance of more than 10 marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia, as abovementioned, shall be formed by a line parallel to the windings of the Coast, and which shall never exceed the distance of 10 marine leagues therefrom.

V. It is moreover agreed, that no establishment shall be formed by either of the two parties within the limits assigned by the two preceding Articles to the possessions of the other; consequently, British subjects shall not form any establishment either upon the coast, or upon the border of the continent comprised within the limits of the Russian possessions, as designated in the two preceding Articles; and, in like manner, no establishment shall be formed by Russian subjects beyond the said limits.

VI. It is understood that the subjects of His Britannic Majesty, from whatever quarter they may arrive, whether from the ocean, or from the interior of the continent, shall for ever enjoy the right of navigating freely, and without any hindrance whatever, all the rivers and streams which, in their course towards the Pacific Ocean, may cross the line of demarcation upon the line of coast described in Article III. of the present Convention.

VII. It is also understood, that, for the space of 10 years from the signature of the present Convention, the vessels of the two Powers, or those belonging to their respective subjects, shall mutually be at liberty to frequent, without any hindrance whatever, all the inland seas, the gulfs, havens, and creeks on the coast mentioned in Article III. for the purposes of fishing and of trading with the natives.

VIII. The port of Sitka, or Novo Archangelsk, shall be open to the commerce and vessels of British subjects for the space of 10 years from the date of the exchange of the ratifications of the present Convention. In the event of an extension of this term of 10 years being granted to any other Power, the like extension shall be granted also to Great Britain.

IX. The abovementioned liberty of commerce shall not apply to the trade in spirituous liquors, in fire arms, or other arms, gunpowder or other warlike stores; the High Contracting Parties reciprocally engaging not to permit the abovementioned articles to be sold or delivered, in any manner whatever, to the natives of the country.

X. Every British or Russian Vessel navigating the Pacific Ocean, which may be compelled by storms or by accident, to take shelter in the ports of the respective Parties, shall be at liberty to refit therein, to provide itself with all necessary stores, and to put to sea again, without paying any other than port and light-house dues, which shall be the same as those paid by national vessels. In case, however, the master of such vessel should be under the necessity of disposing of a part of his merchandize in order to de-

fray his expences, he shall conform himself to the regulations and tariffs of the place where he may have landed.

XI. In every case of complaint on account of an infraction of the Articles of the present Convention, the civil and military authorities of The High Contracting Parties, without previously acting or taking any forcible measure, shall make an exact and circumstantial report of the matter to their respective Courts, who engage to settle the same, in a friendly manner, and according to the principles of justice.

XII. The present Convention shall be ratified, and the ratifications shall be exchanged at London, within the space of 6 weeks, or sooner if possible.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at St. Petersburg, the $\frac{23}{16}$ th day of February, in the year of our Lord, 1825.

[L. S.] STRATFORD CANNING. [L. S.] COMTE DE NESSELRODE.
[L. S.] PIERRE DE POLETICA.

No 21. *Treaty between Russia and Turkey. Convention explanatory of the Treaty of Bucharest. Signed at Akerman, Oct. 25, 1826.*

EXTRACT.

ART. 7. The reparation of damages caused to the subjects and merchants of the Imperial Court of Russia, by the corsairs of the regencies of Algiers, Tunis, and Tripoli; and the full and entire execution of the stipulations of the treaty of commerce and of the 7th article of the treaty of Jassy, being strictly obligatory upon the Sublime Porte, in virtue of the express clauses of the 12th article of the treaty of Bucharest, which, conjointly with the 3d article, renew and confirm all the anterior transactions—the Sublime Porte solemnly reiterates the promise to fulfil hereafter, with the most scrupulous fidelity, all its engagements in that respect. In consequence:

1st. The Sublime Porte will use all its endeavours to prevent the corsairs of the Regencies of Barbary, under any pretext whatever, from disturbing the commerce and navigation of Russia; and in case of depredations on their part, of which the Porte shall have been informed, it engages to cause restitution to be made without delay, of all the prizes made by the said corsairs, to indemnify the Russian subjects for the losses they may have sustained; to address for that purpose a rigorous firman to the Regencies of Barbary, in a manner that will not render it necessary to repeat it a second time; and in case the said firman should not have been executed, to pay the amount of the indemnity from the Imperial treasure, within the term of two months, as specified in the 7th article of the Treaty of Jassy, from the day of the reclamation which shall have been made of the property, by the Russian Minister, with the verification which shall have been taken.

2d. The Sublime Porte promises to observe rigorously, all the conditions of the said Treaty of Commerce, to remove all the prohibitions con-

trary to the express tenor of its stipulations, to place no other shackles upon the free navigation of vessels under the Russian flag, in all the seas and waters of the Ottoman Empire, without any exception. In a word, to permit the merchants, captains, and all the subjects of Russia in general, to enjoy the advantages and prerogatives, as well as the entire liberty of commerce, which are formerly stipulated by the treaties existing between the two Empires.

3d. Conformably to the 1st article of the Treaty of Commerce, which stipulates in favour of all the subjects of Russia in general, the liberty of navigation and commerce in all the States of the Sublime Porte, either by land or sea, and above all, where navigation and commerce may be convenient to Russian subjects; and in virtue of the clauses of the 31st and 35th articles of the said treaty, which assure the free passage, by the canal of Constantinople, of Russian merchant ships, loaded with provisions and other merchandises and productions of Russia, or of other countries not subject to the Ottoman Empire, as well as the free disposition of their provisions, merchandises and productions, the Sublime Porte promises to oppose no obstacle nor prevention to Russian vessels, laden with wheat or other provisions, at their arrival in the canal of Constantinople, where they may re-ship their cargoes into other vessels whether Russian, or those of other foreign nations, to be transported out of the States of the Sublime Porte.

4th The Sublime Porte accepts the good offices of the Imperial Court of Russia for the purpose of according, after former examples, the entry of the Black Sea to the vessels of Powers friendly to the Ottoman Government, who have not yet obtained that privilege, in such a manner that the Russian commerce of importation may not, by the means of those vessels, and their exportation of Russian products, suffer any injury.

No. 22. *Treaty for the Settlement of Greece. Signed at London, July 6, 1827.*

In the Name of the Most Holy Undivided Trinity.

His Majesty the King of the United Kingdom of Great Britain and Ireland, his Majesty the King of France and Navarre, and his Majesty the Emperor of all the Russias, penetrated with the necessity of putting an end to the sanguinary contest which by delivering up the Greek provinces and the isles of the Archipelago to all the disorders of anarchy, produces daily fresh impediments to the commerce of the European States, and gives occasion to piracies which not only expose the subjects of the high contracting parties to considerable losses, but besides render necessary burdensome measures of protection and repression; his Majesty the King of the United Kingdom of Great Britain and Ireland, and his Majesty the King of France and Navarre, having besides received, on the part of the Greeks, a pressing request to interpose their mediation with the Ottoman Porte, and being, as well as his Majesty the Emperor of all the Russias, animated by the desire of stopping the effusion of blood, and of arresting the evils of all kinds which might arise

from the continuance of such a state of things, have resolved to unite their efforts, and to regulate the operations thereof by a formal Treaty, with a view of re-establishing peace between the contending parties by means of an arrangement which is called for as much by humanity as by the interest of the repose of Europe.

Wherefore they have nominated their Plenipotentiaries to discuss, agree upon, and sign the said Treaty—

Who, after having communicated their full powers, and found the same in good and due form, agreed upon the following articles:—

ART. 1. The contracting powers will offer to the Ottoman Porte their mediation, with the view of bringing about a reconciliation between it and the Greeks.

This offer of mediation shall be made to this power immediately after the ratification of the treaty, by means of a collective declaration signed by the Plenipotentiaries of the allied Courts at Constantinople; and there shall be made at the same time, to the two contending parties, a demand of an immediate armistice between them, as a preliminary condition indispensable to the opening of any negotiation.

ART. 2. The arrangement to be proposed to the Ottoman Porte, shall rest on the following bases:—The Greeks shall hold of the Sultan as of a * superior lord; and in consequence of this superiority, they shall pay to the Ottoman Empire an annual tribute (*relief*.) the amount of which shall be fixed once for all, by a common agreement. They shall be governed by the authorities whom they shall themselves choose and nominate, but in the nomination of whom the Porte shall have a determined voice.

To bring about a complete separation between the individuals of the two nations, and to prevent the collisions which are the inevitable consequence of so long a struggle, the Greeks shall enter upon the possession of the Turkish property situated either on the continent or in the isles of Greece, on the condition of indemnifying the former proprietors, either by the payment of an annual sum, to be added to the tribute which is to be paid to the Porte, or by some other transaction of the same nature.

ART. 3. The details of this arrangement, as well as the limits of the territory on the continent, and the designation of the islands of the Archipelago to which it shall be applicable, shall be settled in a subsequent negotiation between the high powers and the two contending parties.

ART. 4. The contracting powers engage to follow up the salutary work of the pacification of Greece on the bases laid down in the preceding articles, and to furnish without the least delay their representatives at Constantinople with all the instructions which are necessary for the execution of the treaty now signed.

ART. 5. The contracting powers will not seek in these arrangements any augmentation of territory, any exclusive influence, any commercial

* Suzerain is the term used, it belongs to the feudal law, and signifies Lord Paramount.

advantage for their subjects, which the subjects of any other nation may not equally obtain.

ART. 6. The arrangements of reconciliation and peace, which shall be definitively agreed upon between the contending parties, shall be guaranteed by such of the signing powers as shall judge it useful or possible to contract the obligation: the mode of the effects of this guarantee shall become the object of subsequent stipulations between the high powers.

ART. 7. The present Treaty shall be ratified, and the ratifications shall be exchanged in two months, or sooner if possible.

In faith whereof, the respective Plenipotentiaries have signed, and sealed it with their arms.

Done at London, July, 6, 1827.

DUDLEY.
POLIGNAC.
LIEVEN.

ADDITIONAL AND SECRET ARTICLE.

In case that the Ottoman Porte does not accept, within the space of one month, the mediation which shall be proposed, the high contracting parties agree upon the following measure:—

1. It shall be declared, by their representatives at Constantinople to the Porte, that the inconveniences and evils pointed out in the public treaty as inseparable from the state of things subsisting in the East for the last six years, and the termination of which, through the means at the disposal of the Sublime Porte, appears still remote, impose upon the high contracting parties the necessity of taking immediate measures for an approximation with the Greeks.

It is to be understood that this approximation shall be brought about by establishing commercial relations with the Greeks, by sending to them for that purpose and receiving from them, Consular agents, so long as there shall exist among them authorities capable of maintaining such relations.

2. If within the said term of one month, the Porte do not accept the armistice proposed in the first article of the public treaty, or if the Greeks refuse to execute it, the high contracting powers shall declare to that one of the two contending parties which shall wish to continue hostilities, or to both if such become necessary, that the said high contracting powers intend to exert all the means which circumstances may suggest to their prudence to obtain the immediate effects of the armistice, the execution of which they desire, by preventing, in as far as may be in their power, all collision between the contending parties, and, in fact, immediately after the aforesaid declaration, the high contracting powers will conjointly employ all their means in the accomplishment of the object thereof, without, however, taking any part in the hostilities between the two contending parties.

In consequence, the high contracting powers will immediately after the signature of the present additional and secret article, transmit eventual

instructions conformable to the provisions above set forth, to the admirals commanding their squadron in the seas of the Levant.

3. Finally, if, contrary to all expectation, these measures do not yet suffice to induce the adoption by the Ottoman Porte of the propositions made by the high contracting powers, or if, on the other hand, the Greeks renounce the conditions stipulated in their favour in the treaty of this day, the high contracting powers will, nevertheless, continue to prosecute the work of pacification on the bases agreed upon between them; and, in consequence they authorize from this time forward their representatives in London to discuss and determinate the ulterior measures to which it may become necessary to resort.

The present additional and secret article shall have the same force and value as if it had been inserted, word for word, in the treaty of this day. It shall be ratified, and the ratifications thereof shall be exchanged, at the same time as those of the said Treaty.

In faith whereof, the respective Plenipotentiaries have signed it, and have thereto affixed the seals of their arms.

Done at London, this 6th day of July, in the year of Grace 1827.

DUDLEY.
POLIGNAC.
LIEVEN.

No. 23. TREATY OF THE HOLY ALLIANCE.

In the name of the Holy and Indivisible Trinity.

Their Majesties the Emperor of Austria, the King of Prussia, and the Emperor of Russia, in consequence of the *great events*, which have distinguished in Europe the course of the three last years, and especially of the *blessings*, which it has pleased Divine Providence to shed upon those states, whose governments have placed their confidence and their hope in it alone, having acquired the thorough conviction, that it is *necessary* for *insuring* their continuance, that the several powers, in their mutual relations, adopt the sublime truths which are pointed out to us by the eternal religion of our Saviour God—

Declare solemnly, That the present act has no other object than to show, in the face of the universe their unwavering determination to adopt for the only rule of their conduct, both in the administration of their respective states, and in their political relations with every other government, the precepts of their holy religion, the precepts of *justice, of charity, and of peace*, which, far from being solely applicable to private life, ought, on the contrary, directly to influence the resolutions of princes, and to guide all their undertakings, as being the only means of giving *stability* to human institutions, and of remedying their imperfections—their majesties have, therefore, agreed to the following articles:

ART. 1. In conformity to the words of the Holy Scriptures, which command all men to regard one another as brethren the three contracting monarchs will remain *united*, by the bonds of a true and indissoluble fraternity; and, considering each other as compatriots, they will lend one another, on every occasion, and in every place, assistance, aid, and support; and, regarding the subjects and armies, as the fathers of their families, they will govern them in the spirit of fraternity with which they are animated, for the protection of *religion, peace, and justice*.

ART. 2. Therefore, the only governing principle between the abovementioned governments and their subjects, shall be that of rendering *reciprocal services*; of testifying, by an unalterable beneficence, the mutual affection with which they ought to be animated; of considering all as only the members of one christian nation, the three allied powers *looking upon themselves as delegated by providence*, to govern three branches of the same family, to wit: Austria, Prussia,

and Russia, confessing, likewise, that the christian nation, of which they and their people form a part, have really no other sovereign than to him to whom alone power belongs of right, because in him alone are found all the treasures of love, of science and of wisdom, that is to say, God, our divine Saviour, Jesus Christ, the word of the most high, the word of life.

Their Majesty's, *therefore*, recommend, with the most tender solicitude, to their people, as the only means of enjoying that peace which springs from a good conscience, and which alone is durable, to fortify themselves every day more and more in the principles and exercise of the duties which the divine Saviour has pointed out to us.

ART. 3. All powers which wish solemnly to profess the sacred principles which have delegated this act, and who shall acknowledge how important it is to the happiness of nations, too long disturbed, that *these truths* shall henceforth exercise upon human destinies, all the influence which belongs to them, shall be received with as much readiness as affection, into this *holy alliance*.

Made, triplicate, and signed at Paris, in the year of our Lord 1815, on the 14th (26) September.

FRANCIS.

FREDERICK WILLIAM.

ALEXANDER.

A true copy of the original: ALEXANDER.

St. Petersburg, the day of the birth of our Saviour, the 25th of Dec. 1815.

No. 24. SECRET TREATY OF VERONA.

The undersigned, specially authorized to make some additions to *The Treaty of the Holy Alliance*, after having exchanged their respective credentials, have agreed as follows:

ART. 1. The high contracting powers being convinced that the system of *representative* government is equally as *incompatible* with the monarchical principles as the maxim of the sovereignty of the people with the divine right, engage mutually, in the most solemn manner, to use all their efforts to *put an end* to the system of *representative* governments, in whatever country it may exist in Europe, and to prevent its being introduced in those countries where it is not yet known.

ART. 2. As it cannot be doubted that the *liberty* of the *press* is the most powerful means used by the pretended supporters of the rights of nations, to the detriment of those of Princes, the high contracting parties promise reciprocally to adopt all proper measures to *suppress* it, not only in their own states, but also in the rest of Europe.

ART. 3. Convinced that the principles of religion contribute most powerfully to keep nations in the state of passive obedience which they owe to their Princes, the high contracting parties declare it to be their intention to sustain, in their respective states, those measures which the clergy may adopt, with the aim of ameliorating their own interests, so intimately connected with the preservation of the authority of Princes; and the contracting powers join in offering their thanks to the Pope, for what he has already done for them, and solicit his constant co-operation in their views of submitting the nations.

ART. 4. The situation of Spain and Portugal unite unhappily all the circumstances to which this treaty has particularly reference. The high contracting parties, in confiding to France the care of putting an end to them, engage to assist her in the manner which may the least commit them with their own people and the people of France, by means of a subsidy on the part of the two empires, of twenty millions of francs every year, from the date of the signature of this treaty to the end of the war.

ART. 5. In order to establish in the Peninsula the order of things which existed before the revolution of Cadiz, and to insure the entire execution of the articles of the present treaty, the high contracting parties give to each other the reciprocal assurance, that as long as their views are not fulfilled, rejecting all other ideas of utility, or other measures to be taken, they will address themselves with the shortest possible delay, to all the authorities existing in their states, and to all their agents in foreign countries, with the view to establish connections tending towards the accomplishment of the objects proposed by this treaty.

ART. 6. This treaty shall be renewed with such changes as new circumstances may give occasion for, either at a new Congress, or at the Court of one of the contracting parties, as soon as the war with Spain shall be terminated.

ART. 7. The present treaty shall be ratified, and the ratifications exchanged at Paris within the space of six months.

Made at Verona, the 22d Nov. 1822.

(Signed) For Austria, METTERNICH; for France, CHATEAUBRIAND; for Prussia, BERNSTET; for Russia, NESSELRODE.

No. 25. *Declaration of the Powers, on the Abolition of the Slave Trade, of the 8th February, 1815.*

The Plenipotentiaries of the Powers who signed the Treaty of Paris of the 30th May, 1814, assembled in conference:

Having taking into consideration that the commerce known by the name of "the Slave Trade," has been considered by just and enlightened men of all ages, as repugnant to the principles of humanity and universal morality; that the particular circumstances from which this commerce has originated, and the difficulty of abruptly arresting its progress, may have concealed to a certain extent what was odious in its continuance; but that at length the public voice, in all civilized countries, calls aloud for its prompt suppression; that since the character and the details of this traffic have been better known, and the evils of every kind which attend it, completely developed, several European Governments have virtually, come to the resolution of putting a stop to it, and that, successively, all the powers possessing Colonies in different parts of the world have acknowledged, either by Legislative Acts, or by Treaties, or other formal engagements, the duty and necessity of abolishing it:

That by a separate Article of the late Treaty of Paris, Great Britain and France engaged to unite their efforts at the Congress of Vienna, to induce all the Powers of Christendom to proclaim the universal and definitive Abolition of the Slave Trade:

That the Plenipotentiaries assembled at this Congress cannot do greater credit to their mission, better fulfil their duty, and manifest the principles which actuate their august Sovereigns, than by endeavouring to carry this engagement into effect, and by proclaiming, in the name of their Sovereigns their wish of putting an end to a scourge, which has so long desolated Africa, degraded Europe, and afflicted humanity:

The said Plenipotentiaries have agreed to open their deliberations, on the means of accomplishing so salutary an object, by a solemn declaration of the principles which have governed them in this undertaking: accordingly, being duly authorized for this purpose, by the unanimous accession of their respective Courts to the principle laid down in the said separate Article of the Treaty of Paris; they declare, in the face of Europe, that, considering the universal abolition of the Slave Trade as a measure particularly worthy of their attention, conformable to the spirit of the times, and to the generous principles of their august Sovereigns, they are animated with the sincere desire of concurring in the most prompt and effectual execution of this measure, by all the means at their disposal, and of acting in the employment of these means, with all the zeal and perseverance which is due to so great and noble a cause.

Too well acquainted, however with the sentiments of their Sovereigns, not to perceive, that, however honorable may be their views, they cannot

be attained without due regard to the interests, the habits, and even the prejudices of their subjects; the said Plenipotentiaries at the same time acknowledge that this general Declaration cannot prejudice the period that each particular Power may consider as most advisable for the definitive abolition of the Slave Trade. Consequently, the determining the period when this trade is to cease universally, must be a subject of negotiation between the Powers; it being understood, however, that no proper means of securing its attainment, and of accelerating its progress; are to be neglected; and that the engagement, reciprocally contracted in the present Declaration, between the Sovereigns who are parties to it, cannot be considered as completely fulfilled, until the period when complete success shall have crowned their united efforts.

In communicating this Declaration to the knowledge of Europe, and of all civilized countries, the said Plenipotentiaries hope to prevail on every other Government, and particularly on those, which, in abolishing the Slave Trade, have already manifested the same sentiments, to give them their support in a cause, the final triumph of which will be one of the noblest monuments of the age which embraced it, and which shall have brought it to a glorious termination.

Vienna, the 8th of February 1815.

(Signed) CASTLEREAGH.	NESSELRODE.	PALMELLA.	HUMBOLDT.
STEWART. Lieut. Gen.	C. LOWENHIELM.	SALDANHA.	METTERNICH.
WELLINGTON.	GOMEZ LABRADOR.	LOBO.	TALLEYRAND.

No. 26. *General Treaty. signed in Congress at Vienna, 9 June, 1815*.*

EXTRACT. (*Translation as laid before Parliament.*)

XCVI. The general principles adopted by the Congress at Vienna, for the navigation of rivers, shall be applicable to that of the Po.

Commissioners shall be named by the states bordering on rivers, within three months at latest after the termination of the Congress to regulate all that concerns the execution of the present article.

CVIII. The Powers whose states are separated, or crossed by the same navigable river, engage to regulate, by common consent, all that regards its navigation. For this purpose they will name Commissioners, who shall assemble, at latest within, six months after the termination of the Congress, and who shall adopt, as the basis of their proceedings, the principles established by the following Articles:

CIX. The navigation of the rivers, along their course, referred to in the preceding article, from the point where each of them becomes navigable, to its mouth, shall be entirely free, and shall not, in respect to commerce, be prohibited to any one; it being understood that the regulations established with regard to the police of this navigation shall be respected; as they will be framed alike for all, and as favourable as possible to the commerce of all nations

* Since acceded to by all the other Powers of Europe.

CX. The system that shall be established, both for the collection of the duties and for the maintenance of the police, shall be, as nearly as possible, the same along the whole course of the river; and shall also extend, unless particular circumstances prevent it, to those of its branches and junctions, which, in their navigable course, separate or traverse different states.

CXI. The duties on navigation shall be regulated in an uniform and settled manner, and with as little reference as possible to the different quality of the merchandize, in order that a minute examination of the cargo may be rendered unnecessary, except with a view to prevent fraud and evasion. The amount of the duties, which shall in no case exceed those now paid, shall be determined by local circumstances, which scarcely allow of a general rule in this respect. The tariff shall, however, be prepared in such a manner as to encourage commerce by facilitating navigation: for which purpose the duties established upon the Rhine, and now in force on that river, may serve as an approximating rule for its construction.

The tariff once settled, no increase shall take place therein, except by the common consent of the states bordering on the rivers; nor shall the navigation be burthened with any other duties than those fixed in the regulation.

CXII. The offices for the collection of duties, the number of which shall be reduced as much as possible, shall be determined upon in the above regulation, and no change shall afterwards be made, but by common consent, unless any of the States bordering on the Rivers should wish to diminish the number of those which exclusively belong to the same.

CXIII. Each State bordering on the Rivers is to be at the expense of keeping in good repair the towing paths which pass through its territory, and of maintaining the necessary works through the same extent in the channels of the river, in order that no obstacle may be experienced to the navigation.

The intended regulation shall determine the manner in which the States bordering on the Rivers are to participate in these latter works, where the opposite banks belong to different governments.

CXIV. There shall no where be established store-house, port or forced harbour duties. Those already existing shall be preserved for such time only as the States bordering on Rivers (without regard to the local interest of the place or the country where they are established) shall find them necessary or useful to navigation and commerce in general.

CXV. The custom houses belonging to the States bordering on Rivers shall not interfere in the duties of navigation. Regulations shall be established to prevent officers of the customs, in the exercise of their functions, throwing obstacles in the way of the navigation; but care shall be taken, by means of a strict police on the bank, to preclude every attempt of the inhabitants to smuggle goods, through the medium of boatmen.

CXVI. Every thing expressed in the preceding Articles shall be settled by a general arrangement, in which there shall also be comprized whatever may need an ulterior determination.

The arrangement once settled* shall not be changed, but by and with the consent of all the States bordering on Rivers, and they shall take care to provide for its execution with due regard to circumstances and locality.

CXVII. The particular regulations relative to the navigation of the Rhine, the Neckar, the Maine, the Moselle, the Meuse, and the Scheldt, such as they are annexed to the present Act, shall have the same force and validity as if they were textually inserted herein.

CXVIII. These Treaties, Conventions, Declarations, Rugulations, and other particular Acts which are annexed to the present Act, viz.

15. The Declaration of the Powers on the Abolition of the Slave Trade, of the 8th of February, 1815;

16. The Regulations respecting the navigation of Rivers; shall be considered as integral parts of the arrangements of the Congress, and shall have, throughout, the same force and validity as if they were inserted, word for word, in the General Treaty.

Done at Vienna, the 9th of June, in the year of our Lord 1815.

(The Signatures follow in the alphabetical order of the Courts.)

<i>Austria,</i>	[L. s.]	The Prince de METTERNICH.
	[L. s.]	The Baron de WESSENBURG.
<i>France,</i>	[L. s.]	The Prince de TALLEYRAND.
	[L. s.]	The Duke de D'ALBERG.
	[L. s.]	The Count ALEXIS de NOAILLES.
<i>Great Britain,</i>	[L. s.]	CLANCARTY.
	[L. s.]	CATHCART.
	[L. s.]	STEWART. L. G.
<i>Portugal,</i>	[L. s.]	The Comté de PALMELLA.
	[L. s.]	ANTONIO de SALDANAH da GAMA.
	[L. s.]	D. JOAQUIM da SILVEIRA.
<i>Prussia,</i>	[L. s.]	The Prince de HARDENBERG.
	[L. s.]	The Baron de HUMBOLDT.
<i>Russia,</i>	[L. s.]	The Prince de RASOUMOFFSKY.
	[L. s.]	The Count de STACKELBERG.
	[L. s.]	The Count de NESSELDORE.
<i>Spain,</i>		
<i>Sweden,</i>	[L. s.]	The Count CHARLES-AXEL de LOWENHIELM

No. 27. *Treaty between Great Britain and Austria, (and Russia and Prussia) signed at Paris, 5th November, 1815.†*

In the name of the Most Holy and Undivided Trinity.

His Majesty the King of the United Kingdom of Great Britain and Ireland, His Majesty the Emperor of Austria, King of Hungary and Bohemia, His Majesty the Emperor of all the Russias, and His Majesty the King of Prussia, animated by the desire of prosecuting the negotiations adjourned at the Congress of Vienna, in order to fix the destiny of the seven Ionian

* This arrangement has since been settled according to the above regulations.

† Since acceded to by all the other Powers of Europe.

Islands, and to insure the independence, liberty, and happiness of the inhabitants of those Islands, by placing them and their constitution under the immediate protection of one of the great Powers of Europe, have agreed to settle definitively, by a special Act, whatever relates to this object, which, grounded upon the rights resulting from the Treaty of Paris of the 30th May, 1814, and likewise upon the British declarations at the period when the British arms liberated Cerigo, Zante, Cephalonia, Santa Maura, Ithaca, and Paxo, shall be considered as forming part of the General Treaty concluded at Vienna on the 9th June, of the present year 1815, on the termination of the Congress: and in order to settle and sign the said Act, the High Contracting Powers have nominated Plenipotentiaries; that is to say.

His Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honourable Robert Stewart, Viscount Castlereagh, K. G. &c. &c. &c. and the Most Illustrious and Most Noble Lord, Arthur, Duke, Marquess, and Earl of Wellington, Marquess of Douro Viscount Wellington, of Talavera and of Wellington, and Baron Douro, of Wellesley, K. G. &c. &c. &c.

And His Majesty the Emperor of Austria, King of Hungary and Bohemia, the Sieur Clement Wenceslas Lothaire, Prince of Metternich-Winnebourg-Oelshausen, &c. &c. &c. and the Sieur John Philip Baron Wessenberg, &c. &c. &c. who, after having exchanged their full powers, found to be in good and due form, have agreed upon the following Articles:

I The Islands of Corfu, Cephalonia, Zante, Santa Maura, Ithaca, Cerigo, and Paxo, with their dependencies, such as they are described in the Treaty between His Majesty the Emperor of all the Russias and the Ottoman Porte, of the 21st of March, 1800,* shall form a single, free, and independent State, under the denomination of the United States of the Ionian Islands.

II This State shall be placed under the immediate and exclusive protection of His Majesty the King of the United Kingdom of Great Britain and Ireland, his heirs and successors. The other Contracting Powers do consequently renounce every right or particular pretension which they might have formed in respect to them, and formally guarantee all the dispositions of the present Treaty.

III. The United States of the Ionian Islands shall, with the approbation of the Protecting Powers, regulate their internal organization; and, in order to give to all the parts of this organization the necessary consistency and action, His Britannic Majesty will employ a particular solicitude with regard to the legislation and the general administration of those States. His Majesty will, therefore, appoint a Lord High Commissioner to reside there, invested with all the necessary power and authorities for this purpose.

* "The Islands of Corfu, Zante, Cephalonia, Santa Maura, Ithaca, Paxo, Cerigo, and all the large and small islands, inhabited and uninhabited, which are situated opposite to the coasts of the Morea and Albania, which were detached from Venice, and have recently been conquered."—(Art. 2.)

IV. In order to carry into execution, without delay, the stipulations mentioned in the articles preceding, and to ground the political reorganization of the United Ionian States upon that organization which is actually in force, the Lord High Commissioner of the Protecting Power shall regulate the forms of convocation of a Legislative Assembly, of which he shall direct the proceedings, in order to draw up a new Constitutional Charter for the States, which His Majesty the King of the United Kingdom of Great Britain and Ireland shall be requested to ratify.

Until such Constitutional Charter shall have been so drawn up, and duly ratified, the existing Constitutions shall remain in force in the different islands, and no alteration shall be made in them, except by His Britannic Majesty in Council.

V. In order to ensure, without restriction, to the inhabitants of the United States of the Ionian Islands, the advantages resulting from the high protection under which these States are placed, as well as for the exercise of the rights, inherent in the said protection, His Britannic Majesty shall have the right to occupy the fortresses and places of those States, and to maintain garrisons in the same. The military force of the said United States shall also be under the orders of the Commander-in-Chief of the troops of His Britannic Majesty.

VI. His Britannic Majesty consents, that a particular Convention with the Government of the said United States shall regulate, according to the revenues of those States, every thing which may relate to the maintenance of the fortresses already existing, as well as to the subsistence and payment of the British garrisons, and to the number of men of which they shall be composed in time of peace.

The same Convention shall likewise fix the relations which are to exist between the said armed force and the Ionian Government.

VII. The trading flag of the United States of the Ionian Islands shall be acknowledged by all the Contracting Parties as the flag of a free and independent State. It shall carry with the colours, and above the armorial bearings thereon displayed before the year 1807, such other as His Britannic Majesty may think proper to grant, as a mark of the protection under which the said United Ionian States are placed; and for the more effectual furtherance of this protection, all the ports and harbours of the said States are hereby declared to be, with respect to honorary and military rights, within British jurisdiction. The commerce between the United Ionian States and the dominions of His Imperial and Royal Apostolic Majesty shall enjoy the same advantages and facilities as that of Great Britain with the said United States. None but commercial agents, or consuls, charged solely with the carrying on commercial relations, and subject to the regulations to which commercial agents or consuls are subject in other independent States, shall be accredited to the United States of the Ionian Islands.*

* See extract from the Constitutional Chart which follows this Treaty.

VIII. All the Powers which signed the Treaty of Paris of the 30th of May, 1814, and the Act of the Congress of Vienna of the 9th of June, 1815; and also His Majesty the King of the Two Sicilies, and the Ottoman Porte, shall be invited to accede to the present Convention.

XI. The present Act shall be ratified, and the ratifications shall be exchanged in two months, or sooner, if possible.

In witness whereof the respective Plenipotentiaries have signed it, and have affixed thereunto the seals of their Arms.

Done at Paris, the 5th day of November, in the year of our Lord one thousand eight hundred and fifteen.

Signed	[L. S.]	CASTLEREAGH.
	[L. S.]	WELLINGTON.
	[L. S.]	METTERNICH.
	[L. S.]	WESSENBERG.

No. 28. *Documents referring to the Seventh Article of the preceding Treaty.*

Constitutional Chart of the United States of the Ionian Islands, as agreed on and passed unanimously by the Legislative Assembly, on the 2d of May, 1817. EXTRACT. (Translation as laid before Parliament.) Chapter VII. Miscellaneous.

SECTION IV. *Of Foreign Relations.*

I. Whereas in the latter part of the seventh Article of the Treaty of Paris; it is agreed, "that no person, from any Power whatsoever, shall be admitted within these States, possessing or pretending to possess, any powers beyond those which are defined in the aforesaid article;" it is hereby declared, that any person who shall assume to himself any authority as an agent for a foreign Power, except as therein directed, shall be amenable to be tried before the Supreme Council of Justice, and be liable, if found guilty, to punishment, as in cases of high treason against the State.

II. No native, or subject of the United States of the Ionian Islands shall be held competent to act as Consul or Vice-Consul for any foreign Power within the same.

III. The British Consuls, in all ports whatsoever, shall be considered to be the Consuls and Vice-Consuls of the United States of the Ionian Islands, and the subjects of the same shall be entitled to their fullest protection.

IV. All applications necessary to be made by these States to any foreign Power, shall be transmitted by the Senate to His Excellency the Lord High Commissioner of the Protecting Sovereign, who shall forward the same to the ambassador or minister of the Protecting Sovereign, resident at the Court of the said foreign Power, for the purpose of submitting them in due form to the said Power.

V. The approval of the appointments of all foreign agents, or Consuls, in the United States of the Ionian Islands, shall be by the Senate, through the medium of His Highness the President thereof, with the concurrence of His Excellency the Lord High Commissioner of the Protecting Sovereign.

VI. With a view to ensure the most perfect protection to the commerce of these islands, every vessel, navigating under the Ionian flag, shall be bound, before leaving the port of the Ionian States to which she belongs, to provide herself with a pass signed by His Excellency the Lord High Commissioner of the Protecting Sovereign, and no vessel sailing without such pass, shall be considered as navigating according to law. But it is reserved to His Majesty, the Protecting Sovereign, to decide how far it may be necessary, that, independent of such pass, they should further be bound to supply themselves with Mediterranean passes.

SECTION V. *Of the Sanita.*

I. Whereas the protecting and protected State have an equal right and interest in the great object of the preservation of the public health; it is hereby declared, the controul of the Sanita

throughout the United States of the Ionian Islands, shall be vested in the hands of His Excellency the Lord High Commissioner of the Protecting Sovereign, who shall regulate, according to the rules of Sanita, the relative quarantines to be performed in all instances, giving due notice of the same; shall fix the number of officers to be employed, and name, in each island, the heads of the office of Sanita, being either British or Ionian subjects; but all other appointments made upon this head shall be subject to the approbation of the Senate, and, as far as relates to numbers and amount of salary, to the consideration of the Legislative Assembly, as herein before stated in regard to the civil list.

II. The post-office in each island shall, hereafter, be considered as an integral part of the Sanita.

SECTION VI. *Of the National Colours and Armorial Bearings.*

I. The National Commercial Flag of the United States of the Ionian Islands, as directed by the seventh Article of the Treaty of Paris, shall be the original flag of these States, with the addition of the British Union, to be placed in the upper corner, next to the flag-staff.

II. On usual days, the British colours shall be hoisted on all the forts within the United States of the Ionian Islands; but a standard shall be made, to be hoisted on days of public rejoicing and festivity, according to the model of the armorial bearings of the said States

III. The arms, or armorial bearings of the United States of the Ionian Islands shall hereafter consist of the British arms in the centre, surrounded by the arms of each of the islands composing the said States.

IV. The armorial bearings of each of the Islands shall consist of the individual arms of the island, and such emblem, denoting the Sovereign Protection, as may be deemed advisable.

SECTION VII *General Clauses.*

III. In the instance of all maritime transactions, and the collection of the customs, it shall be competent for the proper authorities to employ either British or Ionian subjects.

V. A specific law shall settle the terms, time and mode for the naturalization of foreign subjects in these States; but the subjects of the protecting Power shall, in all instances, be entitled to naturalization in half the time that is required for those of any foreign Power; and a subject of the protecting Power, or of any other Power, may be at once naturalized by a bill to that effect, without reference to any fixed time of residence in these States, which shall be laid down in the law itself.

No. 29. *Resolutions respecting the abolition of the Slave Trade, adopted in the Conference of the 28th November, 1822. TRANSLATION.*

The Plenipotentiaries of Austria, of France, of Great Britain, of Prussia, and of Russia, assembled in Congress at Verona; considering—that their August Sovereigns have taken part in the Declaration of the 8th of February, 1815*, by which the Powers assembled at the Congress of Vienna, have proclaimed in the face of Europe, their invariable resolution to put a stop to the Commerce known by the name of the African Slave Trade:

Considering, moreover, that, notwithstanding this declaration, and in spite of the legislative measures which have in consequences been adopted in various countries, and of the several Treaties concluded since that period between the Maritime Powers, this Commerce, solemnly proscribed, has continued to this very day, that it has gained in activity what it may have lost in extent; that it has even taken a still more odious character, and more dreadful from the nature of the means to which those who carry it on are compelled to have recourse:

That the causes of so revolting an abuse are chiefly to be found in the fraudulent practices, by means of which, the persons engaged in these nefar-

* See page 180.

rious speculations. elude the laws of their country and the vigilance, of the cruizers stationed to put a stop to their iniquities, and veil those criminal operations, of which thousands of human beings annually become their innocent victims:

That the Powers of Europe are called upon, by their previous engagements, as well as by a sacred duty, to seek the most effectual means, of preventing a traffick, which the laws of almost every civilized country have already declared to be culpable and illegal, and of punishing with severity those who persist in carrying it on, in manifest violation of those laws;

Acknowledge the necessity of devoting their most serious attention to an object of such importance to the honor and welfare of humanity; and in consequence declare, in the name of their August Sovereigns:—

That they continue firm in the principles and sentiments manifested by those Sovereigns in the Declaration of the 8th of February, 1815;—that they have never ceased, and never will cease, to consider the Slave Trade as—“a scourge which has too long desolated Africa, degraded Europe, and afflicted humanity;” and that they are ready to concur in every thing that may secure and accelerate the complete and final Abolition of that traffick.

That in order to give effect to this renewed Declaration, their respective Cabinets will eagerly enter into the examination of any measure, compatible with their rights and the interests of their subjects, to produce a result that may prove to the World the sincerity of their wishes, and of their efforts in favor of a cause worthy of their common solicitude.

Verona, 28th November, 1822.

METTERNICH.	CHATEAUBRIAND.	FERRONAYE.	HATZFELDT.
LEBZELTERN.	CARAMAN.	WELLINGTON.	NESSELRODE.
LIEVEN.	TATISCHEFF.		

No. 30. *Treaty between Great Britain and Portugal (and the States General.) Signed at Lisbon, 16th May, 1703.**

EXTRACT. (*Translation from the Latin.*)

I. All former Treaties between the abovesaid Powers are hereby approved, confirmed, and ratified, and are ordered to be exactly and faithfully observed, except in so far as by the present Treaty is otherwise provided and established; so that there shall be between the said Kingdoms and States, their people and subjects, a sincere friendship and perfect amity: they shall all of them mutually assist one another; and each of the said Powers shall promote the interest and advantage of the rest, as if it were his own.

XV. The personal privileges and freedom of trade which the subjects of Great Britain and the States of the United Provinces, at present enjoy in Portugal, the Portugueze shall, in their turn, enjoy in the Dominions of Great Britain and the States of the United Provinces.

* Renewed by Article XXVI. of the Treaty of 1810.

the woollen cloths, and the rest of the woollen manufactures of the Britons, as was accustomed till they were prohibited by the laws: nevertheless, upon this condition:

II. That is to say, that Her Sacred Royal Majesty of Great Britain shall, in Her own name and that of Her successors, be obliged for ever hereafter to admit the wines of the growth of Portugal into Britain; so that at no time, whether there shall be peace or war between the Kingdoms of Britain and France any thing more shall be demanded for these wines, by the name of custom or duty; or by whatsoever other title, directly or indirectly, whether they shall be imported into Great Britain in pipes or hogs-heads, or other casks, than what shall be demanded from the like quality or measure of French wine, deducting or abating a third part of the custom or duty: but if at any time this deduction or abatement of customs, which is to be made as aforesaid, shall in any manner be attempted and prejudiced, it shall be just and lawful for His Sacred Royal Majesty of Portugal again to prohibit the woollen cloths, and the rest of the British woollen manufactures.

III. The most excellent Lords the Plenipotentiaries promise, and take upon themselves, that their above-named masters shall ratify this Treaty, and that within the space of two months the ratifications shall be exchanged.

For the faith and testimony of all which things, I, the Plenipotentiary of Her Sacred Royal Majesty of Great Britain, have confirmed this Treaty, by the subscription of my hand, and by the seal of my coat of arms. And the most excellent Lord the Plenipotentiary of His Sacred Royal Majesty of Portugal, for avoiding the controversy about precedence between the two Crowns of Britain and Portugal, hath subscribed another instrument of the same tenor, changing only what ought to be changed for that reason.

Given at Lisbon, the 27th of December, 1703.

Signed JOHN METHUEN, [L. S.] MARCHIS ALEGRETENSIS, [L. S.]

No. 32. *Convention of Commerce between Great Britain and Prussia.*
Signed at London, April 2, 1824

His Majesty the King of the United Kingdom of Great Britain and Ireland, and His Majesty the King of Prussia, being equally desirous of extending and increasing the commercial intercourse between their respective States, and of affording every facility and encouragement to their subjects engaged in such intercourse; and being of opinion that nothing will more contribute to the attainment of their mutual wishes in this respect, than a reciprocal abrogation of all discriminating and countervailing duties, which are now demanded and levied upon the ships or productions of either nation in the ports of the other, have appointed their Plenipotentiaries to conclude a Convention for that purpose, that is to say:—

His Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honourable George Canning, a Member of His said

Majesty's Most Honourable Privy Council, a Member of Parliament, and His Majesty's Principal Secretary of State for Foreign Affairs;—and the Right Honourable William Huskisson, a Member of His said Majesty's Most Honourable Privy Council, a Member of Parliament, President of the the Committee of Privy Council for Affairs of Trade and Foreign Plantations, and Treasurer of His said Majesty's Navy:

And His Majesty the King of Prussia, the Baron de Werther, His said Majesty's Chamberlain, and His Envoy Extraordinary and Minister Plenipotentiary at the Court of His Britannic Majesty:—who, after having communicated to each other their respective full powers found to be in due and proper form, have agreed upon and concluded the following Articles:

ART. I. From and after the 1st day of May next, Prussian vessels entering or departing from the ports of the United Kingdom of Great Britain and Ireland, and British vessels entering or departing from the ports of His Prussian Majesty's dominions, shall not be subject to any other or higher duties or charges whatever, than are or shall be levied on national vessels entering or departing from such ports respectively.

II. All articles of the growth, produce, or manufacture of any of the dominions of either of the High Contracting Parties, which are or shall be permitted to be imported into, or exported from the ports of the United Kingdom and of Prussia respectively, in vessels of the one country, shall in like manner be permitted to be imported into and exported from those ports in vessels of the other.

III. All articles not of the growth, produce, or manufacture of the dominions of His Britannic Majesty, which can legally be imported from the United Kingdom of Great Britain and Ireland, into the ports of Prussia, in British ships, shall be subject only to the same duties as are payable upon the like articles, if imported in Prussian ships: and the same reciprocity shall be observed in the ports of the United Kingdom, in respect to all articles not the growth, produce, or manufacture of the dominions of His Prussian Majesty, which can legally be imported into the ports of the United Kingdom in Prussian ships.

IV. All goods, wares, and merchandize which can legally be imported into the ports of either country, shall be admitted at the same rate of duty, whether imported in vessels of the other country, or in national vessels; and all goods, wares, or merchandize which can be legally exported from the ports of either country, shall be entitled to the same bounties, drawbacks, and allowances, whether exported in vessels of the other country, or in national vessels.

V. No priority or preference shall be given, directly or indirectly, by the Government of either country, or by any company, corporation, or agent, acting on its behalf, or under its authority, in the purchase of any article the growth, produce, or manufacture of either country imported into

the other, on account of, or in reference to the character of the vessel in which such article was imported; it being the true intent and meaning of the High Contracting Parties, that no distinction or difference whatever shall be made in this respect.

VI. The present Convention shall be in force for the term of 10 years from the date hereof: and further, until the end of 12 months after either of the High Contracting Parties shall have given notice to the other of its intention to terminate the same; each of the High Contracting Parties reserving to itself the right of giving such notice to the other at the end of the said term of 10 years; and it is hereby agreed between them, that at the expiration of 12 months after such notice shall have been received by either party from the other, this Convention, and all the provisions thereof, shall altogether cease and determine.

VII. The present Convention shall be ratified, and the ratifications shall be exchanged at London, within one month from the date hereof, or sooner if possible.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at London, the 2d day of April, in the year of our Lord, 1824.

[L. s.] GEORGE CANNING.

[L. s.] WERTHER.

[L. s.] W. HUSKISSON.

No. 33. *Convention between Great Britain and Spain. Signed at London, the 14th of July, 1786.*

(Translation as laid before Parliament.)

The Kings of England and of Spain, animated with the same desire of consolidating, by every means in their power, the friendship so happily subsisting between Them and Their Kingdoms, and wishing, with one accord, to prevent even the shadow of misunderstanding which might be occasioned by doubts, misconceptions, or other causes of dispute between the subjects on the frontiers of the two Monarchies, especially in distant countries, as are those in America, have thought proper to settle, with all possible good faith, by a new Convention, the points which might one day or other be productive of such inconveniencies, as the experience of former times has very often shewn: To this end, the King of Great Britain has named the most Noble and most Excellent Lord, Francis Baron Osborne, of Kiveton, Marquis of Carmarthen, His Britannic Majesty's Privy Councillor, and Principal Secretary of State for the Department of Foreign Affairs, &c. &c. &c. and the Catholic King has likewise authorized Don Bernardo del Campo, Knight of the Noble Order of Charles the Third, Secretary of the same Order, Secretary of the Supreme Council of State, and His Minister Plenipotentiary to the King of Great Britain: who having communicated to each other their respective full Powers, prepared in due form, have agreed upon the following Articles:

I. His Britannic Majesty's subjects, and the other colonists who have hitherto enjoyed the protection of England, shall evacuate the country of the Mosquitos, as well as the continent in general, and the Islands adjacent, without exception, situated beyond the line hereinafter described, as what ought to be the frontier of the extent of territory granted by His Catholic Majesty to the English, for the uses specified in the 3d Article of the present Convention, and in addition to the country already granted to them in virtue of the stipulations agreed upon by the Commissaries of the two Crowns, in 1783.

II. The Catholic King, to prove, on His side, to the King of Great Britain the sincerity of His sentiments of friendship towards His said Majesty and the British nation, will grant to the English more extensive limits than those specified in the last Treaty of Peace: and the said limits of the lands added by the present Convention shall for the future be understood in the manner following:

The English line, beginning from the sea, shall take the centre of the river Sibun or Jabon, and continue up to the source of the said river, from thence it shall cross in a straight line the intermediate land, till it intersects the river Wallis; and by the centre of the same river, the said line shall descend to the point where it will meet the line, already settled and marked out by the Commissaries of the two Crowns in 1783: which limits, following the continuation of the said line, shall be observed as formerly stipulated by the Definitive Treaty.

III. Although no other advantages have hitherto been in question, except that of cutting wood for dyeing, yet His Catholic Majesty, as a greater proof of His disposition to oblige the King of Great Britain, will grant to the English the liberty of cutting all other wood, without even excepting mahogany, as well as gathering all the fruits, or produce of the earth, purely natural and uncultivated, which may besides being carried away in their natural state, become an object of utility or of commerce, whether for food or for manufactures; but it is expressly agreed, that this stipulation is never to be used as a pretext for establishing in that country any plantation of sugar, coffee, cocoa, or other like articles; or any fabric or manufacture by means of mills or other machines whatsoever, (this restriction however does not regard the use of saw mills, for cutting or otherwise preparing the wood) since all the lands in question being indisputably acknowledged to belong of right to the Crown of Spain, no settlements of that kind, or the population which would follow, could be allowed.

The English shall be permitted to transport and convey all such wood, and other produce of the place, in its natural and uncultivated state, down the rivers to the sea, but without ever going beyond the limits which are prescribed to them by the stipulations above granted, and without thereby taking an opportunity of ascending the said rivers, beyond their bounds, into the countries belonging to Spain.

IV. The English shall be permitted to occupy the small Island, known by the names of Casina, St. George's Key, or Cayo Casina, in consideration of the circumstance of that part of the coast opposite to the said Island being looked upon as subject to dangerous disorders; but this permission is only to be made use of for purposes of real utility: and as great abuses, no less contrary to the intentions of the British Government, than to the essential interests of Spain, might arise from this permission, it is here stipulated, as an indispensable condition, that no fortification, or work of defence whatever, shall at any time be erected there, nor any body of troops posted, nor any piece of artillery kept there; and in order to verify with good faith the accomplishment of this condition *sine quâ non* (which might be infringed by individuals, without the knowledge of the British Government) a Spanish officer or Commissary, accompanied by an English Commissary or officer, duly authorized, shall be admitted, twice a year, to examine into the real situation of things.

V. The English nation shall enjoy the liberty of refitting their merchant ships in the southern triangle included between the point of Cayo Casina, and the cluster of small islands which are situated opposite that part of the coast occupied by the cutters, at the distance of eight leagues from the river Wallis, seven from Cayo Casina, and three from the river Sibun, a place which has always been found well adapted to that purpose. For which end, the edifices and storehouses, absolutely necessary for that service, shall be allowed to be built; but in this concession is also included the express condition of not erecting fortifications there at any time, or stationing troops, or constructing any military works; and in like manner it shall not be permitted to station any ships of war there, or to construct an arsenal or other building, the object of which might be the formation of a naval establishment.

VI. It is also stipulated, that the English may freely and peaceably catch fish on the coast of the country assigned to them by the last Treaty of Peace, as also of that which is added to them by the present Convention: but without going beyond their boundaries, and confining themselves within the distance specified in the preceding Article.

VII. All the restrictions specified in the last Treaty of 1783, for the entire preservation of the right of the Spanish Sovereignty over the country, in which is granted to the English only the privilege of making use of the wood of the different kinds, the fruits and other produce, in their natural state, are here confirmed; and the same restrictions shall also be observed with respect to the new grant. In consequence, the inhabitants of those countries shall employ themselves simply in the cutting and transporting of the said wood, and in the gathering and transporting of the fruits, without meditating any more extensive settlements, or the formation of any system of government, either military or civil, further than such re-

gulations as Their Britannic and Catholic Majesties may hereafter judge proper to establish, for maintaining peace and good order amongst Their respective subjects.

VIII. As it is generally allowed that the woods and forests are preserved, and even multiply, by regular and methodical cuttings, the English shall observe this maxim, as far as possible; but if, notwithstanding all their precautions, it should happen in course of time that they were in want of dying-wood, or mahogany, with which the Spanish Possessions might be provided, the Spanish Government shall make no difficulty to furnish a supply to the English, at a fair and reasonable price.

IX. Every possible precaution shall be observed to prevent smuggling; and the English shall take care to conform to the regulations which the Spanish Government shall think proper to establish amongst their own subjects, in all communications which they may have with the latter; on condition nevertheless that the English shall be left in the peaceable enjoyment of the several advantages inserted in their favor in the last Treaty stipulated by the present Convention.

X. The Spanish Governors shall be ordered to give to the said English, dispersed, all possible facilities for their removal to the settlements agreed upon by the present Convention, according to the stipulations of the 6th Article of the Definitive Treaty of 1783, with respect to the country allotted for their use by the said Article.

XI. Their Britannic and Catholic Majesties, in order to remove every kind of doubt with regard to the true construction of the present Convention, think it necessary to declare that the conditions of the said Convention ought to be observed according to their sincere intention to ensure and improve the harmony and good understanding, which so happily subsist at present between Their said Majesties.

In this view, His Britannic Majesty engages to give the most positive orders for the evacuation of the countries above-mentioned, by all His subjects of whatever denomination; but if, contrary to such declaration, there should still remain any persons so daring as to presume, by retiring into the interior country, to endeavor to obstruct the entire evacuation already agreed upon, His Britannic Majesty, so far from affording them the least succour, or even protection, will disavow them in the most solemn manner, as He will equally do those who may hereafter attempt to settle upon the territory belonging to the Spanish Dominion.

XII. The evacuation agreed upon shall be completely effected within the space of six months, after the exchange of the ratifications of this Convention, or sooner if it can be done.

XIII. It is agreed that the new grants described in the preceding Articles, in favor of the English nation, are to take place as soon as the aforesaid evacuation shall be entirely accomplished.

XIV. His Catholic Majesty, prompted solely by motives of humanity, promises to the King of England, that he will not exercise any act of severity against the Mo-quitos, inhabiting in part the countries which are to be evacuated, by virtue of the present Convention, on account of the connections which may have subsisted between the said Indians and the English; and His Britannic Majesty, on His part will strictly prohibit all His subjects from furnishing arms, or warlike stores, to the Indians in general, situated upon the frontiers of the Spanish possessions.

XV. The two Courts shall mutually transmit to each other duplicates of the orders which they are to dispatch to their respective governors and commanders in America, for the accomplishment of the present Convention; and a frigate, or proper ship of war, shall be appointed, on each side, to observe in conjunction that all things are performed in the best order possible, and with that cordiality and good faith of which the two Sovereigns have been pleased to set the example.

XVI. The present Convention shall be ratified by Their Britannic and Catholic Majesties, and the ratifications exchanged within the space of six weeks or sooner if it can be done.

In witness whereof, we, the undersigned Ministers Plenipotentiary of Their Britannic and Catholic Majesties, in virtue of our respective full Powers, have signed the present Convention, and have affixed thereto the seals of our arms.

Done at London, this 14th day of July, 1786.

Signed CARMARTHEN, [L. S.] LE CHEV. DEL CAMPO, [L. S.]

ADDITIONAL ARTICLES. *Signed at Madrid, August 28, 1814.*

I. It is agreed that, pending the negotiation of a new Treaty of Commerce, Great Britain shall be admitted to trade with Spain upon the same conditions as those which existed previously to the year 1796. All the Treaties of Commerce which at that period subsisted between the two nations, being hereby ratified and confirmed.

II. His Catholic Majesty, concurring in the fullest manner, in the sentiments of His Britannic Majesty with respect to the injustice and inhumanity of the traffic in slaves, will take into consideration, with the deliberation which the state of His possessions in America demands, the means of acting in conformity with those sentiments. His Catholic Majesty promises, moreover, to prohibit His subjects from engaging in the slave trade, for the purpose of supplying any islands or possessions excepting those appertaining to Spain, and to prevent likewise, by effectual measures and regulations, the protection of the Spanish flag being given to foreigners who may engage in this traffic, whether subjects of His Britannic Majesty or of any other State or Power.

III. His Britannic Majesty being anxious that the troubles and disturbances which unfortunately prevail in the Dominions of His Catholic Majesty in America should entirely cease, and the subjects of those provinces should return to their obedience to their lawful Sovereign, engages to take the most effectual measures for preventing His subjects from furnishing arms, ammunition, or any other warlike articles to the revolted in America.

The present Additional Articles shall form an integral part of the Treaty of Friendship and Alliance signed on the 5th day of July, and shall have the same force and validity as if they were inserted word for word, and shall be ratified within forty days, or sooner if possible.

Done at Madrid, this 28th day of August, 1814.

Signed

H. WELLESLEY,

M. EL DUQUE DE SAN CARLOS, [L. S.]

No. 34. *Preliminary and Secret Treaty between the French Republic and his C. M. the King of Spain, relating to the aggrandizement of H. R. H. the Infant Duke of Parma in Italy, and to the recession of Louisiana.*

His Catholick Majesty having always manifested the most anxious desire to procure for his R. H. the Duke of Parma an aggrandizement, which might place him on a footing corresponding with his dignity; and the French Republic having long since given to H. C. M. the King of Spain to understand the desire which they felt to recover possession of the colony of Louisiana; both governments having interchanged their views upon these two subjects of common interest, and circumstances permitting them to enter into engagements in this particular, which as far as it depends on them, may assure reciprocal satisfaction, have authorized for this purpose, that is to say: the French Republic, the citizen Alexander Berthier, general in chief; and his C. M. don Mariano Luis de Urquijo, Chevalier of the Order of Charles III, and of St. John of Jerusalem, Counsellor of State, his Envoy Extraordinary and Plenipotentiary near the Batavian Republic, and his provisional first Secretary of State; who, after having exchanged their powers, have agreed, saving the ratification, upon the following articles:

ART. I. The French Republic engages to procure for H. R. H. the Infant Duke of Parma an augmentation of territory which shall raise the population of his estates to one million of inhabitants with the title of King, and all the rights annexed to the royal dignity; and to this effect the French Republic engages to obtain the consent of H. M. the Emperor and King, and of the other states interested, so that H. R. H. the Infant Duke of Parma may without opposition enter into possession of the said territories, at the time of the confirmation of peace between the French Republic and his Imperial Majesty.

ART. II. The augmentation to be given to H. R. H. the Duke of Parma may consist of Tuscany, in case the present negotiations of the French government with H. I. Majesty shall permit them to dispose of that country, or of the three Roman ecclesiastical provinces, or any other continental provinces of Italy, that may form a rounded estate.

ART. III. H. C. M. promises and engages on his part to recede to the French Republic, six months after the full and entire execution of the conditions and stipulations herein expressed, relative to H. R. H. the Duke of Parma, the colony or province of Louisiana, with the same extent that it now has in the hands of Spain, and had while in the possession of France, and such as it ought to be in conformity with the treaties subsequently concluded between Spain and other states.

ART. IV. H. C. M. will give the necessary orders for the occupation of Louisiana by France, the moment the estates designed for his aggrandizement shall be placed in the hands of H. R. H. the Duke of Parma. The French may, according to its convenience, defer the taking possession; and when this is to be done, the states directly or indirectly interested shall agree upon the ulterior conditions which their common interests and that of their inhabitants may demand.

ART. V. H. C. M. engages to deliver to the French Republic in the ports of Spain in Europe, one month after the execution of the stipulation with regard to the Duke of Parma, six ships of war in good condition, of seventy-four guns, armed and equipped, and in a state to receive the French crews and supplies.

ART. VI. The stipulations of the present treaty having no prejudicial object; but on the contrary preserving untouched the rights of every one, it is not to be presumed, they can excite the suspicions of any power. But if the contrary should happen, and the result of their execution should be that the two states are attacked or threatened, both powers engage to make a common cause, as well to repel aggression, as also to take those conciliatory measures proper to maintain peace with all their neighbors.

ART. VII. The obligations contained in the present treaty, in nothing annul those which are expressed in the treaty of alliance signed at *St. Ildefonso*, on the 2d Fructidor, year 4, (19th of August, 1796;) on the contrary they unite with new ties the interests of the two powers, and confirm the stipulations of the treaty of alliance in all the cases to which they can be applied.

ART. VIII. The ratifications of the present preliminary articles shall be completed and exchanged in the period of one month, or sooner if possible, counting from the date of the signing of the present treaty.

In faith of which, we, the undersigned, ministers plenipotentiary of the French Republic, and of H. C. M. by virtue of our respective powers, have signed the present preliminary articles, and have affixed our seals.

Done at St. Ildefonso, the 9th Vendimiaire, 9th year of the French Republic, (1st October, 1800.)

(Signed)

ALEXANDER BERTHIER.

(Signed)

MARIANO LUIS DE URQUIJO.

No. 35. *Treaty between Great Britain and the Two Sicilies. Signed at London, September 26, 1816. (Translation, as laid before Parliament.)*

In the Name of the Most Holy and Undivided Trinity.

His Majesty the King of the Two Sicilies having represented to His Majesty the King of the United Kingdom of Great Britain and Ireland, the inconveniences which result to His finances, and to the navigation and commerce of His subjects, from the continuance of the privileges and exemptions which British subjects and those of some other Powers have enjoyed with His Dominions, and His desire to abolish them by common consent; and His Britannic Majesty having testified to His Sicilian Majesty His perfect readiness to consent thereto, by the establishment of a state of things, which may at the same time remedy the inconveniences of which His Sicilian Majesty has complained, and provide also for the security and advantage of the subjects and of the commerce of Great Britain in the Dominions of His Sicilian Majesty; Their Britannic and Sicilian Majesties, ever animated by the sentiments of the most intimate friendship, in order to obtain this double purpose, have named for their Plenipotentiaries, viz:

[Here follow the names and titles of the different plenipotentiaries on both sides.]

Who, after having communicated their full Powers, found to be in due and proper form, have agreed upon the following Articles:

I. His Britannic Majesty consents that all the privileges and exemptions which His subjects, their commerce and shipping have enjoyed, and do enjoy, in the Dominions, Ports and Domains of his Sicilian Majesty, in virtue of the Treaty of Peace and Commerce concluded at Madrid the $\frac{10}{23}$ of May, 1667, between Great Britain and Spain; of the Treaties of commerce between the same Powers, signed at Utrecht the 9th of December, 1713, and at Madrid the 13th of December, 1715; and of the Convention concluded at Utrecht, the $\frac{25\text{th February}}{8\text{th March}}$ 1712 13, between Great Britain and the Kingdom of Sicily, shall be abolished; and it is agreed upon, in consequence, between Their said Britannic and Sicilian Majesties, Their heirs and successors, that the said privileges and exemptions, whether of persons or flag and shipping, are and shall continue for ever abolished.

II. His Sicilian Majesty engages not to continue, nor hereafter to grant to the subjects of any other Power whatever, the privileges and exemptions abolished by the present Convention.

III. His Sicilian Majesty promises that the subjects of His Britannic Majesty shall not be subjected within His Dominions to a more rigorous system of examination and search by the officers of customs, than that to which the subjects of His said Sicilian Majesty are liable.

IV. His Majesty the King of the two Sicilies promises that British Commerce in general, and the British subjects who carry it on, shall be treated throughout His Dominions upon the same footing as the most favoured nations, not only with respect to the persons and property of the

said British subjects, but also with regard to every species of article in which they may traffic, and the taxes or other charges payable on the said articles, or on the shipping in which the importations shall be made.

V. With respect to the personal privileges to be enjoyed by the subjects of His Britannic Majesty in the Kingdom of the Two Sicilies, His Sicilian Majesty promises that they shall have a free and undoubted right to travel, and to reside in the Territories and Dominions of His said Majesty, subject to the same precautions of police, which are practised towards the most favoured nations. They shall be entitled to occupy dwellings and warehouses, and to dispose of their personal property of every kind and description, by sale, gift, exchange, or will, and in any other way whatever, without the smallest loss or hindrance being given them on that head. They shall not be obliged to pay, under any pretence whatever, other taxes or rates than those which are paid, or that hereafter may be paid, by the most favoured nations in the Dominions of His said Sicilian Majesty. They shall be exempt from all military service, whether by land or sea; their dwellings, warehouses, and every thing belonging or appertaining thereto for objects of commerce or residence, shall be respected. They shall not be subjected to any vexatious search or visits. No arbitrary examination or inspection of their books, papers, or accounts, shall be made under the pretence of the Supreme Authority of the State, but these shall alone be executed by the legal sentence of the competent tribunals. His Sicilian Majesty engages on all these occasions to guarantee to the subjects of His Britannic Majesty who shall reside in His States and Dominions, the preservation of their property and personal security, in the same manner as those are guaranteed to His subjects, and to all foreigners belonging to the most favoured and most highly privileged nations.

VI. According to the tenor of the Articles I. and II. of this Treaty, His Sicilian Majesty engages not to declare null and void the privileges and exemptions which actually exist in favour of British Commerce within His Dominions; till the same day, and except by the same Act, by which the privileges and exemptions, whatsoever they are, of all other nations, shall be declared null and void within the same.

VII His Sicilian Majesty promises, from the date when the general abolition of the privileges according to the Articles I. II. and VI. shall take place—to make a reduction of ten per cent. upon the amount of the duties, payable according to the tariff in force the 1st of January, 1816, upon the total of the merchandize or productions of the United Kingdom of Great Britain and Ireland, her Colonies, Possessions, and Dependencies, imported into the States of His said Sicilian Majesty, according to the tenor of Article IV. of the present Convention—it being understood that nothing in this Article shall be construed to prevent the King of the Two Sicilies from granting, if he shall think proper, the same reduction of duty to other foreign nations.

VIII. The subjects of the Ionian Islands shall, in consequence of their being actually under the immediate protection of His Britannic Majesty, enjoy all the advantages which are granted to the Commerce, and to the subjects of Great Britain by the present Treaty—it being well understood that, to prevent all abuses, and to prove its identity, every Ionian vessel shall be furnished with a patent, signed by the Lord High Commissioner or his representative.

IX. The present Convention shall be ratified, and the ratifications thereof exchanged in London, within the space of six months, or sooner, if possible.

In witness whereof, the respective Plenipotentiaries have signed it, and thereunto affixed the seal of their arms.

Done at London, the 26th of September, 1816.

Signed

CASTLEREAGH, [L. S.]

CASTELCICALA, [L. S.]

SEPARATE AND ADDITIONAL ARTICLE

In order to avoid all doubt respecting the reduction upon the duties in favour of British Commerce, which His Sicilian Majesty has promised in the 7th Article of the Convention, signed this day between His Britannic Majesty and His Sicilian Majesty, it is declared, by this present Separate and Additional Article, that by the concession of ten per cent. of diminution, it is understood, that in case the amount of the duty should be twenty per cent. upon the value of the merchandize, the effect of the reduction of ten per cent. is to reduce the duty from twenty to eighteen, and so for other cases in proportion. And that for the articles which are not taxed *ad valorem* in the tariff, the reduction of the duty shall be proportionate; that is to say, a deduction of a tenth part upon the amount of the sum payable shall be granted.

The present Separate and Additional Article shall have the same force and validity as if it had been inserted, word for word, in the Convention of this day—it shall be ratified, and the ratifications thereof shall be exchanged at the same time.

In witness whereof, the respective Plenipotentiaries have signed it, and have thereunto affixed the seal of their arms.

Done at London, the 26th of September, 1816.

Signed

CASTLEREAGH, [L. S.]

CASTELCICALA, [L. S.]

No. 36. *Treaty between Great Britain and Sardinia. Signed at Vienna, 20th May, 1815.*

EXTRACT. (*Translation, as laid before Parliament.*)

I. The borders of the former States of Genoa, and of the countries called Imperial Fiefs, united to the States of His Majesty the King of Sardinia, according to the following Articles, shall be the same as those which, on the 1st of January, 1792, separated those countries from the States of Parma and Placentia, and from those of Tuscany and Massa.

The Island of Capraja, having belonged to the ancient Republic of Genoa, is included in the cession of the States of Genoa to His Majesty the King of Sardinia.

II. The States which constituted the former Republic of Genoa are united in perpetuity to those of His Majesty the King of Sardinia; to be, like the latter, possessed by Him in full Sovereignty and hereditary property,

and to descend, in the male line, in the order of primogeniture, to the two branches of His House, viz. the Royal Branch, and the Branch of Savoy Carignan.

IV. The Genoese shall enjoy all the rights and privileges specified in the Act, intituled "A. A. Conditions which are to serve as the bases of the union of the Genoese States to those of His Sardinian Majesty." and the said Act shall be considered as an integral part of the present Treaty, and shall have the same force and validity as if it were textually inserted in the present Article.

V. The countries called Imperial Fiefs, formerly united to the ancient Ligurian Republic, are definitively united to the States of His Majesty the King of Sardinia, in the same manner as the rest of the Genoese States; and the inhabitants of those countries shall enjoy the same rights and privileges as those of the States of Genoa, specified in the preceding Article.

Done at Vienna, the 20th May, 1815.

(Signed) CLANCARTY, [L. S.]

The Marquis de St. MARSAN, [L. S.]
The Count ROSSI, [L. S.]

A. A. Conditions which are to serve as the bases of the Union of the Genoese States to those of His Sardinian Majesty.

EXTRACT. *Translation, as laid before Parliament.*

IV. The free port of Genoa shall be re-established, with the regulations which existed under the ancient Government of Genoa. Every facility shall be given by the King to the transit, through His States, of merchandize proceeding from that free port, under such restrictions as His Majesty shall judge expedient for preventing the said merchandize being illicitly sold or consumed in the interior. It shall be subject only to the usual moderate duty

XV. The King shall preserve to Genoa a Tribunal and a Chamber of Commerce, with the powers actually belonging to those two establishments.

No. 37. *Convention of Commerce and Navigation, between Great Britain and the Free Hanseatic Republics of Lubeck, Bremen and Hamburg. Signed at London, September 29, 1825.*

His Majesty the King of the United Kingdom of Great Britain and Ireland, on the one part, and the Senate of the Free Hanseatic City of Lubeck, the Senate of the Free Hanseatic City of Bremen, and the Senate of the Free Hanseatic City of Hamburg, (each State for itself separately) on the other part, being equally desirous of affording every facility and encouragement to their subjects and citizens engaged in commercial intercourse with each other, and being of opinion that nothing will more contribute to the attainment of this desirable object, than a reciprocal abrogation of all discriminating and countervailing duties levied upon the ships of the High Contracting parties, or upon the cargoes of such ships, in the ports of either, have appointed their Plenipotentiaries to conclude a Convention for that purpose, that is to say:—

[Here follow the names and titles of the plenipotentiaries on both sides.]

Who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon and concluded the following Articles:—

ART. I. From and after the date hereof, British vessels entering or departing from the ports of the Free Hanseatic Republics of Lubeck, Bremen, or Hamburgh,—and Lubeck, Bremen, or Hamburgh vessels entering or departing from the ports of the United Kingdom of Great Britain and Ireland, shall not be subject to any other or higher ship duties or charges, than are or shall be levied on national vessels entering or departing from such ports respectively.

II. All goods, wares, and merchandize, whether the production of the territories of the Free Hanseatic Republics of Lubeck, Bremen, or Hamburgh, or of any other country, which may be legally imported from any of the ports of the said Republics into the United Kingdom of Great Britain and Ireland, in British vessels, shall, in like manner, be permitted to be imported in Lubeck, Bremen, or Hamburgh vessels:—and all goods, wares, and merchandize, whether the production of any of the dominions of His Britannic Majesty, or of any other country, which may be legally exported from the ports of the United Kingdom in British vessels, shall, in like manner, be permitted to be exported from the said ports in Lubeck, Bremen, or Hamburgh vessels. And all goods, wares, and merchandize, which may be legally imported into or exported from the ports of Lubeck, Bremen, or Hamburgh, in national vessels, shall, in like manner, be permitted to be imported into or exported from the ports of Lubeck, Bremen, or Hamburgh, in British vessels.

III. All goods, wares, and merchandize, which can be legally imported into the ports of the United Kingdom directly from the ports of Lubeck, Bremen, or Hamburgh, or either of them, shall be admitted at the same rate of duty, whether imported in British vessels, or in vessels belonging to either of the said Republics:—and all goods, wares, and merchandize, which can be legally exported from the United Kingdom, shall be entitled to the same bounties, drawbacks, and allowances, whether exported in British or Hanseatic vessels. And the like reciprocity shall be observed, in the ports of the said Republics, in respect to all goods, wares, and merchandize which can be legally imported into or exported from any or either of the said ports, in vessels belonging to the United Kingdom.

IV. No priority or preference shall be given, directly or indirectly, by any or either of the Contracting Parties, nor by any company, corporation, or agent, acting on their behalf, or under their authority, in the purchase of any article, the growth, produce or manufacture of their States, respectively, imported into the other, on account of or in reference to the character of the vessel in which such article was imported; it being the true intent and meaning of the High Contracting Parties, that no distinction or difference whatever shall be made in this respect.

V. In consideration of the limited extent of the territories belonging to the Republics of Lubeck, Bremen, and Hamburgh, and the intimate connection of trade and navigation subsisting between the Republics, it is hereby stipulated and agreed, that any vessel which shall have been built in any of either of the ports of the said Republics, and which shall be owned exclusively

by a citizen or citizens of any or either of them, and of which the master shall also be a citizen of either of them, and provided three-fourths of the crew shall be subjects or citizens of any or either of the said Republics, or of any or either of the States comprised in the Germanic Confederation, as described and enumerated in the LIIIrd and LVth Articles of the General Treaty of Congress signed at Vienna on the 9th of June 1815,* such vessel, so built, owned, and navigated, shall for all the purposes of this Convention, be taken to be and considered as a vessel belonging to Lubeck, Bremen, or Hamburg.

VI. Any vessel together with her cargo, belonging to either of the three Free Hanseatic Republics of Lubeck, Bremen, or Hamburg, and coming from either of the said ports to the United Kingdom, shall, for all the purposes of this Convention, be deemed to come from the country to which such vessel belongs; and any British vessel and her cargo trading to the ports of Lubeck, Bremen, or Hamburg, directly or in succession, shall, for the like purposes, be on the footing of a Hanseatic vessel and her cargo making the same voyage.

VII. It is further mutually agreed, that no higher or other duties shall be levied, in any or either of the States of the High Contracting Parties, upon any personal property of the subjects and citizens of each, respectively, on the removal of the same from the dominions or territory of such States, (either upon inheritance of such property, or otherwise,) than are or shall be payable, in each State, upon the like property, when removed by a subject or citizen of such State respectively.

VIII. The High Contracting Parties reserve to themselves to enter upon additional stipulations for the purpose of facilitating and extending, even beyond what is comprehended in the Convention of this date, the commercial relations of their respective subjects and dominions, citizens, and territories, upon the principle either of reciprocal or equivalent advantages, as the case may be; and, in the event of any Article or Articles being concluded between the said High Contracting Parties, for giving effect to such stipulations, it is hereby agreed that the Article or Articles which may hereafter be so concluded, shall be considered as forming part of the present Convention.

* ART. 53. *The Sovereign Princes and Free Towns of Germany, under which denomination for the present purpose, are comprehended their Majesties the Emperor of Austria, the King of Prussia, Denmark, and The Netherlands; that is to say, the Emperor of Austria and the King of Prussia for all their possessions which anciently belonged to the German Empire, the King of Denmark for the Duchy of Holstein, and The King of the Netherlands for the Grand Duchy of Luxembourg, establish among themselves a perpetual Confederation, which shall be called "The Germanic Confederation."*

56. *The affairs of the Confederation shall be confided to a Federative Diet, in which all the members shall vote by their Plenipotentiaries either individually or collectively, in the following manner, without prejudice to their rank:*

1. Austria. 2. Prussia. 3. Bavaria. 4. Saxony. 5. Hanover. 6. Wirtemberg. 7. Baden. 8. Electoral Hesse. 9. Grand Duchy of Hesse. 10. Denmark, for Holstein. 11. The Netherlands, for Luxembourg. 12. Grand Ducal and Ducal Houses of Saxony. 13. Brunswick and lands, for Luxembourg. 14. Mecklenburg-Schwerin and Strelitz. 15. Holstein Oldenburg, Anhalt, and Nassau. 16. Hohenzollern. Litchenstein, Reuss, Schaumburg-Lippe, Lippe and Waldeck. 17. The Free Towns of Lubeck, Frankfort, Bremen, and Hamburg. — Total Seventeen Votes.

IX. The present Convention shall be in force for the term of 10 years from the date hereof; and further, until the end of 12 months after the King of the United Kingdom of Great Britain and Ireland, on the one part of the Governments of the Free Hanseatic Republics of Lubeck, Bremen, or Ham-
burgh, or either of them, on the other part, shall have given notice of their intention to terminate the same; each of the said High Contracting Parties reserving to itself the right of giving such notice to the other, at the end of the said term of 10 years; and it is hereby agreed between them, that, at the expiration of 12 months after such notice shall have been received by either of the parties from the other, this Convention, and all the provisions thereof, shall altogether cease and determine, as far as regards the States giving and receiving such notice; it being always understood and agreed, that if one or more of the Hanseatic Republics aforesaid shall, at the expiration of 10 years from the date hereof, give or receive notice of the proposed termination of this Convention, such Convention shall, nevertheless, remain in full force and operation, as far as regards the remaining Hanseatic Republics or Republic, which may not have given or received such notice.

X. The present Convention shall be ratified, and the ratifications shall be exchanged at London within one month from the date hereof, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at London the 29th day of September, in the year of our Lord, 1825.

[L. S.] GEORGE CANNING.

[L. S.] JAMES COLQUHOUN.

[L. S.] W. HUSKISSON.

No. 38. *Treaty between Great Britain and Muscat. Concluded at Muscat, the 10th of September, 1822.*

Statement of the Requisitions made to His Highness the Imaum of Muscat, by Cap. Moresby of His Majesty's Ship *Menai*, Commissioner, vested with full powers by His Excellency Sir Robert T. Farquhar, Baronet, Governor of the island of Mauritius, &c. &c. &c.

1stly. The Imaum to abolish the foreign slave trade, for ever, in his dominions.

2dly. The Imaum to order the seizure of all such vessels, attempting the foreign slave traffic, and to seize and punish the captain and crew as Pirates.

Translation of answers in Arabic, under the hand and seal of His Highness the Imaum of Muscat, to the requisitions made by Captain Moresby of His Majesty's ship *Menai*, Commissioner, &c. &c. &c.

1st. I did write last season to all my officers, positively prohibiting the sale of slaves to any christian nation, and I will repeat those orders.

2d. I will send orders to all the officers throughout my dominions, that if they find (the owners of) any Arab vessels buying slaves for sale in christian countries, they must take possession of all such vessels and inflict punishment on the commanders, (owners) thereof, even though they be bound for Madagascar.

3dly. The Imaum to punish all persons serving on board ships dealing in slaves, who do not give information to the Imaum, or his Governors, that they have been slave dealing.

4thly. His Highness to appoint, at such places as His Majesty the King of Great Britain may wish, habitations for the residence of consuls, agents or others, charged with the suppression of the slave trade by English subjects; such consuls, agents or others, are to receive the assistance, on application, of His Highness the Imaum or his Lieutenant Governor or others, for the apprehension and detention of any English subjects who may attempt the traffic.

5thly. The Imaum to authorize British cruizers to seize all Arab vessels that may be found loaded with slaves, after the expiration of four months from the present date if bound to any port out of His Highness's dominions.

6thly. The Imaum, or his Governors to provide all Arab vessels with passes (port clearances.) Any vessels found with slaves on board, who have not such port clearances, to be seized according to the 5th requisition, by any British cruizers that may meet them.

3d I will instruct my officers, and publish generally such instructions throughout my dominions, that the crews of any vessel carrying slaves for sale, in christian countries, be enjoined, on their return to the Arab port, to give information to the authority at such port, that he may punish the commanders, and that if they come to be detected in concealing such information, they (the crews) shall themselves suffer punishment.

4th. The authority you require, permitting the settlement of an agent on your part in Zanzibar, and the neighbouring parts, for the purpose of having intelligence, and watching the traffic in slaves with christian nations, is granted, and I now give it to Captain Moresby.

5th. The authority you have required, permitting to you after the expiration of four months, the seizure of all vessels laden with slaves bound for christian countries, is hereby granted to captain Moresby.

6th. I will write to my Governors, regarding the statement to be given in writing to all ships departing on a voyage, certifying from what port they have come and whither they are bound, and you may seize every vessel you may fall in with beyond Madagascar, and in the sea of Mauritius, after 4 months from the date of the permission contained in the answer to the 5th requisition above acceded to, and you may carry into me, for my disposal, any ship you may meet even on this side the Isle of France, provided she have not the writing statement required from the Governor of the port whence she sailed.

FAIRFAX MORESBY, Captain H.M.S. *Menai*.

Additional Requisition by Captain Moresby to the Imaum of Muscat.

That it may be understood in the most comprehensive manner, where Arab ships are liable to seizure by His Majesty the King of England's cruizers, after the expiration of 4 months, the Imaum to authorize that the King of England's cruizers, finding Arab ships with slaves on board to the eastward of a line drawn from Cape Delgado, passing 60 miles east of Socotra, on to Duu Head, forming the western point of the Gulf of Cambay (unless driven by stress of weather,) shall be seized and treated by His Majesty's cruizers in the same manner as if they were under the English flag.

F. MORESBY, Captain H. M. S. *Menai*.

Signature of the Imaum. [L. s.]

Reply.

I have permitted Captains of ships of the Government of English State ("Surkar il doivent il mgly seed") to seize all Arab vessels loaded with slaves for the foreign market, that shall be found to the eastward of the prescribed line, after the expiration of 4 months from the date of the 5th requisition already agreed to; but ships driven by stress of weather without the said line, must suffer no molestation.

Signature of the Imaum. [L. s.]

No. 39. *Definitive Treaty of Friendship between Great Britain and Persia.*
Signed at Tehran, 25th November, 1814. EXTRACT. (*Preamble.*)

What relates to Commerce, Trade, and other Affairs, will be drawn up and concluded in a separate Commercial Treaty.

Signed at Tehrap, 25th November, 1814.

Signed
JAMES MORIER, [L.S.]
HENRY ELLIS, [L.S.]

Signed
MIRZA HAHAMMED SHEFFI.
MIRZA BUZURK CAIQAM.
MIRZA ADUL WAHAB.

No. 40. *Treaty between Great Britain and Madagascar.* Signed at Tamatave, 23d October, 1817.

Robert Townsend Farquhar, Esq. Governor and Commander in Chief, Captain General, Vice-Admiral of the Island of Mauritius and its dependencies:

By His Commissioners, Captain Stanfell of the Royal Navy, commanding His Majesty's ship *Phæton* and T. R. Pye, Esq. Assistant-Agent for His Excellency's Government at Madagascar, who are vested with full Powers, and Radama, King of Madagascar and its dependencies, by His Commissioners Ratzalika, Rampoole Ramanou and Raciabato—representing the said Radama, and with full Powers from His Majesty—

Have agreed upon the following Articles and Conditions:

I. It is agreed by the Parties to these presents, respectively, that the mutual confidence, friendship, and brotherhood, which are hereby acknowledged to subsist between the Contracting Parties, shall be maintained and perpetuated for ever.

II. It is agreed, and the two Contracting Parties hereby covenant and agree that, from the date of this Treaty, there shall be an entire cessation and extinction through all the Dominions of King Radama, and wherever his influence can extend, of the sale or transfer of slaves, or other persons whatever; to be removed from off the soil of Madagascar into any country, island, or dominion of any other Prince, Potentate, or Power whatever; and that Radama, King of Madagascar, will make a proclamation and a law prohibiting all his subjects, or persons depending on him or his dominions, to sell any slave to be transported from Madagascar, or to aid or abet, or assist, in any such sale, under penalty that any person so offending shall be reduced to slavery himself.

III. And in consideration of this concession on the part of Radama, the King of Madagascar and His nation, and in full satisfaction for the same, and for the loss of revenue thereby incurred by Radama, King of Madagascar, the Commissioners on the part of His Excellency the Governor of Mauritius, do engage to pay Radama, yearly, the following articles:

One thousand dollars in gold.	Four hundred pair of shoes.
One thousand dollars in silver.	Four hundred soldiers' caps.
One hundred bls. of Powder of 100 lbs. each.	Four hundred stocks.
One hundred English muskets, complete, with accoutrements.	Twelve serjeants' swords, regulation, with belts.
Ten thousand flints	Four hundred pieces of white cloth. } India.
Four hundred red jackets.	Two hundred pieces of blue cloth. }
Four hundred shirts.	A full-dress coat, hat, and boots, all complete, for King Radama;—and
Four hundred pair of trowsers.	Two horses.

upon a certificate being received, that the said laws and regulations and proclamations have been enforced the preceding quarter; which certificate shall be signed by Radama, and countersigned by the agent of His Excellency Governor Farquhar, resident at the Court of Radama.

IV. And further, it is agreed by the Contracting Parties mutually to protect the faithful friend and Ally of England, the King of Johanna, from the predatory attacks to which he has been for many years annually exposed from some of the smaller States of the sea-coast of Madagascar; and to use every means in their power, by their subjects, allies, and dependents, to put a final end to this system of piracy; and for this purpose, proclamations shall be made by Radama and the Governor of Mauritius, prohibiting all persons whatever from engaging in this piracy; and these proclamations shall be particularly distributed in the ports and on the sea-coast of Madagascar.

ADDITIONAL ARTICLE.

The Contracting Parties agree in considering this Treaty as provisional, until ratified and confirmed by His Majesty's Ministers on the part of the King of Great Britain,—which Ratification will be forwarded, without loss of time, to the King of Madagascar (Radama) by His Ambassador to that Court. This formality, however, is not to prevent the stipulations of the Treaty from being carried into full and complete effect from the date hereof.

Done at Tamatave, Island of Madagascar, October 23, 1817.

Signed

FRANCIS STANFELL,
Captain H. M. S. *Phæton*,
Senior Naval Officer and
Commissioner.

THOS. R. PYE, Agent of the British Government and Commissioner.

RATZALIKA for RADAMA.
RAMPOOLE RAMANOU.
RACIAHATO.
RAMALAZA, as Witness.

No. 41. *Treaty between Great Britain and the Sublime Porte. Concluded at the Dardanelles, the 5th of January, 1809.*

In the Name of the Most Merciful God.

The object of this faithful and authentic Instrument is as follows:—

Notwithstanding the appearances of a misunderstanding between the Court of Great Britain and the Sublime Ottoman Porte, consequent upon the occurrences of the moment, the two Powers, equally animated with a sincere desire of re-establishing the ancient friendship which subsisted between them, have named their Plenipotentiaries for that purpose, that is to say, His Most August and Most Honored Majesty George the Third, King of the United Kingdom of Great Britain and Ireland, has named for His Plenipotentiary, Robert Adair, Esq. one of the Members of the Royal Parliament of Great Britain; and His Majesty the Most Noble, Most Powerful, and Most Magnificent Sultan Mahomet Han II. Emperor of the Ottomans has named for His Plenipotentiary, Seyde, Mehmed-Emin Vahid Effendi, Director and Inspector of the department called "*Mercoufat*;" and invested with the rank of "*Nichangi*," of the Imperial Divan; who, having reciprocally communicated to each other their full Powers, after several conferences and discussions, have concluded the peace equally desired by both Powers, and have agreed upon the following Articles:

I. From the moment of signing the present Treaty, every act of hostility between England and Turkey shall cease; and in furtherance of this happy peace, the prisoners on both sides shall be exchanged without distinction, in thirty-one days from the signature of this Treaty, or sooner if possible.

II. Should any fortresses belonging to the Sublime Porte be in the possession of Great Britain, they shall be restored to the Sublime Porte, and given up, with all the cannons, warlike stores, and other effects, in the condition in which they were found at the time of their being occupied by England, and this restitution shall be made in the space of thirty-one days from the signature of the present Treaty.

III. Should there be any effects and property belonging to English merchants under sequestration, within the jurisdiction of the Sublime Porte, the

same shall be entirely given up, and restored to the proprietors; and in like manner should there be any effects, property, and vessels, belonging to merchants, subjects of the Sublime Porte, under sequestration at Malta, or in any other islands and possessions of His Britannic Majesty, they also shall be entirely given up and restored to their proprietors.

IV. The Treaty of Capitulations agreed upon in the Turkish year 1086, (A. D. 1675) in the middle of the month Gemmaziel Akir, as also the Act relating to the Commerce of the Black Sea,* and the other privileges (*Imtiazat*) equally established by Acts at subsequent periods, shall continue to be observed and maintained as if they had suffered no interruption.

V. In return for the indulgence and good treatment afforded by the Sublime Porte to English merchants, with respect to their goods and property, as well as in all matters tending to facilitate their commerce, England shall reciprocally extend every indulgence and friendly treatment to the flag, subjects, and merchants of the Sublime Porte, which may hereafter frequent the Dominions of His Britannic Majesty for the purposes of commerce.

VI. The last custom-house tariff established at Constantinople, at the ancient rate of 3 per cent. and particularly the Article relating to the interior commerce shall continue to be observed, as they are at present regulated and to which England promises to conform.

VII. Ambassadors from His Majesty the King of Great Britain shall enjoy all the honors enjoyed by Ambassadors to the Sublime Porte from other nations; and Ambassadors from the Sublime Porte at the Court of London shall reciprocally enjoy all the honors granted to the Ambassadors from Great Britain.

VIII. Consuls (*Shahbenders*) may be appointed at Malta, and in the Dominions of His Britannic Majesty where it shall be necessary to manage and superintend the affairs and interests of merchants of the Sublime Porte, and similar privileges and immunities to those granted to English Consuls resident in the Ottoman Dominions, shall be duly afforded to the "*Shahbenders*" of the Sublime Porte.

IX. English Ambassadors and Consuls may supply themselves, according to custom, with such Dragomen as they shall stand in need of, but as it has already been mutually agreed upon, that the Sublime Porte shall not grant the "*Barat*" of Dragoman in favor of individuals who do not execute that duty in the place of their destination, it is settled, in conformity with this principle, that in future, the "*Barat*" shall not be granted to any person of the class of tradesmen or banker, nor to any shopkeeper or manufacturer in the public markets, or to one who is engaged in any matters of this description, nor shall English Consuls be named from among the subjects of the Sublime Porte.

X. English patents of protection shall not be granted to dependants, or merchants who are subjects of the Sublime Porte, nor shall any passport be de-

* Permission granting the Navigation of the Black Sea, by English merchant vessels, entering through the Straights of Constantinople.

livered to such persons on the part of Ambassadors or Consuls, without permission previously obtained from the sublime Porte.

XI. As ships of war have at all times been prohibited from entering the canal of Constantinople, viz. in the straits of the Dardanelles and of the Black Sea; and as this ancient regulation of the Ottoman Empire is in future to be observed by every Power in time of Peace, the Court of Great Britain promises on its part to conform to this principle.

XII. The ratifications of the present Treaty of Peace between the high Contracting Parties shall be exchanged at Constantinople in the space of ninety-one days from the date of this Treaty, or sooner if possible. In faith of which and in order that the ratification of the twelve Articles of this Treaty (which has been happily concluded, by the assistance of God, and in the sincerity and good faith of the Two Parties) may be exchanged. I, Plenipotentiary of the Sublime Porte, have, in virtue of my full Powers, signed and sealed this Instrument, which I have delivered to the Plenipotentiary of His Britannic Majesty, in exchange for another Instrument exactly conformable thereto, written in the French language, with a translation thereof, which has been delivered to me on his part, agreeably to his full powers.

Done near the Castles of the Dardanelles, the 5th of January, 1809, which corresponds with the year of the Hegira 1223. the 19th day of the Moon *Zilkaade*. Signed SEYD MEHEMMED EMIN VAHID EFFENDI, [L. S.]
Signed ROBERT ADAIR, [L. S.]

No. 42. *Treaty of Peace between Russia and Turkey. Signed at Adrianople, September 14, 1829.*

In the name of God Almighty.

His imperial majesty, the most high and most mighty emperor and autocrat of all the Russias, and his highness the most high and most mighty emperor of the Ottomans, animated with an equal desire to put an end to the calamities of war, and to establish, on a solid and immutable basis, peace, friendship, and good harmony between their empires, have resolved, with a common accord, to intrust this salutary work to, &c.

[Here follow the names and titles of the different plenipotentiaries on both sides.]

ART. 1. All enmity and all differences which have subsisted hitherto between the two empires shall cease from this day, as well on land as on sea, and there shall be in perpetuity peace, friendship, and good intelligence, between his majesty the emperor and padishah of all the Russias, and his highness the padishah of the Ottomans, their heirs and successors to the throne, as well as between their respective empires. The two high contracting parties will devote their particular attention to prevent all that might cause misunderstandings to revive between their respective subjects. They will scrupulously fulfil all the conditions of the present treaty of peace, and will watch, at the same time, lest it should be infringed in any manner, directly or indirectly.

ART. II. His majesty the emperor and padishah of all the Russias, wishing to give to his highness the emperor and padishah of the Ottomans a pledge of the sincerity of his friendly disposition, restores to the Sublime Porte the principality of Moldavia, with all the boundaries which it had before the commencement of the war to which this present treaty has put an end.

His Imperial majesty also restores the principality of Wallachia, the Banat of Crayova, Bulgaria, and the country of Dobridge, from the Danube as far as the sea, together with Silistria, Hirsova, Matzia, Isakiya, Toulza, Babadag, Bazardjik, Varna, Pravedy, and the other towns, burghs, and villages, which it contains, the whole extent of the Balkan, from Ewinc Bouroun as far as Kazan, and all the country from the Balkans as far as the sea with Siliminea, Jomboli, Aidos, Karnabat, Missanovica, Akhioly, Bourgas, Sizopolis, Kirkkilissi, the city of Adrianople, Lule Bourgas, and all the towns, burghs, and villages, and in general all places which the Russian troops have occupied in Roumelia.

ART. III. The Pruth shall continue to form the limit of the two empires, from the point where the rivers touches the territory of Moldavia to its junction with the Danube; from that spot the frontier line will follow the course of the Danube as far as the mouth of St. George's' so that leaving all the islands formed by the different arms of that river, in possession of Russia, the right bank shall remain, as formerly, in the possession of the Ottoman Porte. Nevertheless it is agreed that this right bank shall remain uninhabited from the point where the arm of St. George separates itself from that of Souline, to a distance of two hours from the river, and that no establishment of any kind shall be formed there, any more than on the islands which shall remain in possession of the court of Russia, where, with the exception of the quarantines which may be established there, it shall not be allowed to make any other establishment or fortification. The merchant-vessels of the powers shall have the liberty of navigating the Danube in all its course; and those which bear the Ottoman flag shall have free entrance into the mouth of Keli and Souline, that of Saint George remaining common to the ships of war and merchant vessels of the two contracting powers. But the Russian ships of war, when ascending the Danube, shall not go beyond the point of its junction with the Pruth.

ART. IV. Georgia, Imeritia, Mingrelia, and several other provinces of the Caucasus, having been for many years and in perpetuity united to the empire of Russia, and that empire having besides, by the treaty concluded with Persia, at Tourkmantchai, on the 10th of February, 1828, acquired the Khanats of Erivan and of Naktchivan, the two high contracting powers have recognised the necessity of establishing between their respective states, on the whole of that line, a well determined frontier, capable of preventing all future discussion. They have equally taken into consideration the proper means to oppose insurmountable obstacles to the incursions and depredations which

the neighboring tribes hitherto committed. and which have so often compromised the relations of friendship and good feeling between the two empires; consequently, it has been agreed upon, to consider, henceforward, as the frontiers between the territories of the imperial court of Russia, and those of the Sublime Ottoman Porte in Asia, the line which, following the present limit of the Gouriel from the Black Sea, ascends as far as the border of Imeritia, and from thence, in the straightest direction, as far as the point where the frontiers of the Pochaliks of Akhaltzik and of Kars meet those of Georgia, leaving in this manner to the north of, and within that line, the town of Akhaltzik and the fort of Khallnalick, at a distance of not less than two hours.

All the countries situate to the south and west of this line of demarkation towards the Pachaliks of Kars and Trebisond, together with the major part of the Pachalik of Akhaltzik, shall remain in perpetuity under the domination of the Sublime Porte, whilst those which are situated to the north and east of the said line towards Georgia, Imeritia, and the Gouriel, as well as all the littoral of the Black Sea, from the mouth of the Kouben, as far as the port of St. Nicholas inclusively under the domination of the emperor of Russia. In consequence, the imperial court of Russia gives up and restores to the Sublime Porte the remainder of the Pachalik of Akhaltzik, the town and the Pachalik of Kars, the town and Pachalik of Bayazid, the town and Pachalik of Erzeroum, as well as all the places occupied by the Russian troops, and which may be out of the above mentioned line.

ART. V. The principalities of Moldavia and Wallachia having, by a capitulation, placed themselves under the suzerainete of the Sublime Porte, and Russia having guarantied their prosperity, it is understood that they shall preserve all the privileges and immunities granted to them in virtue of their capitulation, whether by the treaties concluded between the imperial courts, or by the *Hatti Sherihs* issued at different times. In consequence, they shall enjoy the free exercise of their religion, perfect security, a national and independent administration, and the full liberty of trade. The additional clauses to antecedent stipulations, considered necessary to secure to these two provinces the enjoyment of their rights, shall be inscribed in the next separate act, which is and shall be considered as forming an integral part of the present treaty.

ART. VI. The circumstances which have occurred since the conclusion of the convention of Akerman not having permitted the Sublime Porte to undertake immediately the execution of the clauses of the separate act relative to Servia, and annexed to the 5th article of the said convention, the Sublime Porte engages in the most solemn manner to fulfil them without the least delay, and with the most scrupulous exactness; and to proceed in particular, to the immediate restitution of the six districts detached from Servia, so as to insure forever the tranquility and the welfare of that faithful and obedient nation. The firman, confirmed by the *Hatti Sheriff*, which shall order the execution of

the aforesaid clauses, shall be delivered and communicated to the imperial court of Russia, within the period of a month within the date of the signature of the treaty of peace.

ART. VII. Russian subjects shall enjoy, throughout the whole extent of the Ottoman empire, as well by land as by sea, the full and entire liberty of commerce secured to them by the former treaties concluded between the two high contracting powers. No infringement of that liberty of commerce shall be committed, neither shall it be permitted to be checked, in any case or under any pretence, by a prohibition or any restriction whatever, nor in consequence of any regulation or measure, whether it be one of internal administration or of internal legislation. Russian subjects, vessels and merchandise, shall be secure against all violence and all chicanery. The former shall live under the exclusive jurisdiction and police of the ministers and consuls of Russia. The Russian vessels shall not be subjected to any visit on board whatever, on the part of the Ottoman authorities, neither out at sea, nor in any of the ports or roadsteads belonging to the dominions of the Sublime Porte. And all merchandize and commodities belonging to a Russian subject, after having paid the custom house duties required by the tariffs, shall be freely conveyed, deposited on land, in the warehouses of the proprietor or of his consignee, or else transferred to the vessels of any other nation whatever, without the Russian subjects being required to give notice to the local authorities, and still less to ask their permission. It is expressly agreed upon, that all grain proceeding from Russia shall enjoy the same privileges, and that its free transit shall never experience, under any pretence, any difficulty or impediment. The Sublime Porte engages besides, to watch carefully that the commerce and navigation of the Black Sea shall not experience the slightest obstruction of any nature whatever. For this purpose, the Sublime Porte recognises and declares that the passage of the canal of Constantinople, and the strait of the Dardanelles, entirely free and open to Russian ships under merchant flags, laden or in ballast, whether they come from the Black Sea to go into the Mediterranean, or whether, returning from the Mediterranean, they wish to re-enter the Black Sea. These vessels, provided they be merchantmen, of whatever size or tonnage they may be, shall not be exposed to any impediment or vexation whatever, as it has been stipulated above. The two courts shall come to an understanding with respect to the best means for preventing all delay in the delivery of the necessary clearances. In virtue of the same principle, the passage of the canal of Constantinople and of the strait of the Dardanelles is declared free and open for all the merchant vessels of the powers at peace with the Sublime Porte, whether bound to the Russian ports of the Black Sea, or returning from them—whether laden or in ballast—upon the same conditions as those stipulated for the vessels under the Russian flag. In fine, the Sublime Porte, acknowledging the right of the Imperial Court of Russia to obtain guaranty of this full liberty of commerce and navigation in

the Black Sea, solemnly declares that she will never, under any pretence whatever, throw the least obstacle in its way. She promises, above all, never to permit herself in future to stop or detain vessels, laden or in ballast, whether Russian or belonging to nations with which the Ottoman empire shall not be in a state of declared war, passing through the strait of Constantinople and the strait of the Dardanelles, to repair from the Black Sea into the Mediterranean, or from the Mediterranean to the Russian ports of the Black Sea.— And if, which God forbid! any of the stipulations contained in the present article should be infringed, and the reclamation of the Russian minister on that subject should not obtain a full and prompt satisfaction, the Sublime Porte recognises, beforehand, the right in the Imperial Court of Russia to consider such an infraction an act of hostility, and immediately to retaliate on the Ottoman empire.

ART. VIII. The arrangements formerly stipulated by the 6th Article of the Convention of Akerman, for the purpose of regulating and liquidating the claims of the respective subjects and merchants of both empires, relating to the indemnity for the losses experienced, at different periods, since the war of 1806, not having been yet carried into effect, and Russian commerce having, since the conclusion of the aforesaid convention, suffered new and considerable injury in consequence of the measures adopted respecting the navigation of the Bosphorus, it is agreed and determined that the Sublime Porte, as a reparation for that injury and those losses, shall pay to the Imperial Court of Russia, in the course of eighteen month, at periods which shall be settled hereafter, the sum of one million five hundred thousand ducats of Holland; so that the payment of this sum shall put and end to all claim or reciprocal pretensions on the part of the two contracting Powers, on the subject of the aforesaid circumstances.

ART. IX. The prolongation of the war, to which the present treaty of peace happily puts an end, having occasioned, to the Imperial court of Russia, considerable expenses, the Sublime Porte recognises the necessity of offering it an adequate indemnity. For this purpose, independently of the cession of a small portion of territory in Asia, stipulated by the fourth article, which the court of Russia consents to receive on account of the said indemnity, the Sublime Porte engages to pay to the said court, a sum of money, the amount of which shall be regulated by mutual accord.

ART. X. The Sublime Porte, whilst declaring its entire adhesion to the stipulations of the treaty concluded in London on the 24th of June, (the 6th of July) 1827, between Russia, Great Britain, and France, accedes, equally, to the act drawn up on the 10th of March, (22d) 1829, by mutual consent, between these same powers, on the basis of the said treaty, and containing the arrangement of detail, relative to its definitive execution. Immediately after the exchange of the ratification of the present treaty of peace, the Sublime Porte shall appoint plenipotentiaries to settle with those of the Imperial Court

of Russia, and of the courts of England and France, the execution of the said stipulation, and arrangements.

ART. XI. Immediately after the signature of the present treaty of peace between the two empires, and the exchange of the ratification of the two sovereigns, the Sublime Porte shall take the necessary measures for the prompt and scrupulous execution of the stipulations which it contains, and particularly of the third and fourth articles, relative to the limits which are to separate the two empires, as well in Europe as in Asia; and of the fifth and sixth articles, respecting the principalities of Wallachia and Moldavia, as well as Servia; and from the moment when these stipulations can be considered as having been fulfilled, the Imperial Court of Russia will proceed to the evacuation of the territory of the Ottoman empire, conformable to the basis established by a separate act, which forms an integral part of the present treaty of peace. Until the complete evacuation of the territories occupied by the Russian troops, the administration and the order of things there established at the present time, under the influence of the Imperial Court of Russia, shall be maintained, and the Sublime Ottoman Porte shall not interfere with them in any manner.

ART. XII. Immediately after the signature of the present treaty of peace, orders shall be given to the commanders of the respective troops, as well by land as by sea, to cease hostilities. Those committed after the signature of the present treaty shall be considered as not having taken place, and shall occasion no change in the stipulations which it contains. In the same manner any thing which in that interval shall have been conquered by the troops of either one or the other of the high contracting powers, shall be restored without the least delay.

ART. XIII. The high contracting powers, while re-establishing between themselves the relations of sincere amity, grant general pardon, and a full and entire amnesty, to all those of their subjects, of whatever condition they may be, who during the course of the war happily terminated this day, shall have taken part in military operations, or manifested, either by their conduct or their opinions, their attachment to one or the other of the two contracting powers. In consequence, not one of these individuals shall be molested or prosecuted, either in his person or goods, on account of his past conduct; and every one of them, recovering the property which he possessed before, shall enjoy it peaceably under the protection of the laws, or shall be at liberty to transport himself, with his family, his goods, his furniture, &c. into any country which he may please to choose, without experiencing any vexations or impediments whatever.

There shall be granted besides to the respective subjects of the two powers established in the territories restored to the Sublime Porte, or ceded to the imperial court of Russia, the same term of 18 months, to commence from the exchange of the ratification of the present treaty of peace, to dispose, if they

think proper, of their property acquired either before or since the war, and to retire, with their capital, their goods, furniture, &c., from the states of one of the contracting powers into those of the other, and reciprocally.

ART. XIV. All prisoners of war, of whatever nation, condition, or sex they may be, which are in the two empires, must immediately, after the exchange of the ratifications of the present treaty of peace, be set free, and restored without the least ransom or payment; with the exception of the Christians who, of their own free will, have embraced the Mahomedan religion in the states of the Sublime Porte, or the Mahomedans who, who, also of their own free will, have embraced the Christian religion in the territories of the Russian empire.

The same conduct shall be adopted towards the Russian subjects, who, after the signature of the present of peace, may in any manner whatever have fallen into captivity, and be found in the states of the Sublime Porte.

The imperial court of Russia promises on its part to act in the same way towards the subjects of the Sublime Porte. No repayment shall be required for the sums which have been applied by the two high contracting parties to the support of prisoners. Each of them shall provide the prisoners with all that may be necessary for their journey as far as the frontiers; where they shall be exchanged by commissioners appointed on both sides.

ART. XV. All the treaties, conventions, and stipulations, settled and concluded at different periods between the imperial court of Russia and the Ottoman Porte, with the exception of those which have been annulled by the present treaty of peace, are confirmed in all their force and effect, and the two high contracting parties engage to observe them religiously and inviolably.

ART. XVI. The present treaty of peace shall be ratified by the two high contracting courts, and the exchange of the ratifications between the respective plenipotentiaries shall take place within the space of six weeks, or earlier, if possible. In faith of which,

[Signed] Count ALEXIS ORLIF.
Count J. PAHLEN.

In virtue, &c. [Signed] DIEBITSCH ZABALKANSKY.

SEPARATE ACT, relating to the principalities of Moldavia and Wallachia.
In the name of Almighty God.

The two high contracting powers, at the same time that they confirm all the stipulations of the separate act of Akerman, relative to the forms to be observed on the election of the hospodars of Moldavia and Wallachia, have recognised the necessity of giving to the administration of those provinces a more durable basis, and one more in harmony with their true interests. With this view, it has been, and is definitively resolved, that the reign of the hospodars shall not, as formerly, be limited to seven years, but they shall be invested with the dignity for life, except in the case of a free and unconstrained abdication, or of an expulsion in consequence of crimes committed as detailed in the said separate act.

The hospodars are to administer the internal government of their provinces, with the assistance of their divan, according to their own pleasure; but without permitting themselves any infraction of the rights guaranteed to the two countries by treaties or hatti sherifs, nor shall their administration be disturbed by any command tending to the violation of those rights.

The S Porte obliges itself conscientiously to keep watch that the privileges granted to Moldavia and Wallachia shall in no way be violated by the neighbouring governors, and that these shall in

no way be allowed to interfere in the affairs of those two provinces; also to prevent the inhabitants of the right bank of the Danube from making excursions upon the territory of Moldavia and Wallachia. All isles situated nearest to the left bank of the Danube, are to be considered as part of the territory of those provinces; and from the point where it enters the Ottoman territory, to the point of its confluence with the Pruth, the channel of the Danube is to form the boundaries of the two principalities.

To provide the more securely for the more inviolability of the Moldavian and Wallachian territory, the Sublime Porte engages to retain no fortified point upon the left bank of the Danube, nor to permit any settlement there of its Mahometan subjects. It is accordingly irrevocably fixed that no Mahometan shall ever be allowed to have his residence in Moldavia or Wallachia, and that only merchants, provided with firmans, shall be admitted for the purpose of buying, on their account, such articles as may be required for the consumption of Constantinople.

The Turkish cities, situated on the left bank of the Danube, are to be restored to Wallachia, to remain incorporated with that principality; and the fortifications previously existing on that bank, are never to be repaired. Mahometans possessing landed property, either in those cities, or upon any point left of the Danube, provided they have not unfairly become possessed thereof, (*non usurpes sur des particuliers*) shall be bound to sell such property to natives within eighteen months.

The government of the principalities being entitled to all the privileges of independence in their internal administration, it shall be lawful for the same to draw sanitary cordons, and to establish quarantine stations along the line of the Danube, and wherever else it may seem necessary; nor shall any strangers, be they Christians or Mahometans, have a right to consider themselves above an exact compliance with such quarantine regulations. For the execution of the quarantine duty, the protection of the frontiers, the maintenance of order in the cities and in the open country, and for the purpose of obedience to their decrees, the government of each principality shall be permitted to maintain a sufficient military force. The numerical force of these troops is to be determined by the hospodars and their respective divans, upon the basis of former examples.

The Sublime Porte, animated by an earnest wish to secure to the two principalities every species of prosperity which they are capable of enjoying, and being aware of the abuses and oppression occasioned by the contributions for the supply of Constantinople, and the victualling of the fortresses of the Danube, renounces, in the most complete and unconditional manner, its rights in this respect. Moldavia and Wallachia are accordingly for ever relieved of all those contributions of corn, provisions, cattle, and timber, which they were formerly bound to furnish.—Nor shall, in any case, labourers be demanded from those provinces for any forced service (*corvée*.) In order, however, in some degree to indemnify the grand seignorial treasury for the losses which may be sustained by this renunciation of rights, Moldavia and Wallachia are bound, independently of the yearly tribute paid under the denomination of Kharadsh Idiye, and Rakiabiye, by virtue of the hattı sherif of 1822, to pay the Sublime Porte yearly, a pecuniary indemnity, the amount of which is hereafter to be determined. Moreover, upon every fresh nomination of a hospodar, in consequence of death, resignation, or deposition, the principality where that event occurs, shall be bound to pay to the Sublime Porte, a sum equal to the yearly tribute of the province. With the exception of these sums, no tribute or present of any kind shall, under any pretext whatever, be demanded from the hospodars.

In consequence of the abolition of the above special contributions, the inhabitants of the principalities are to enjoy an unlimited freedom of trade for all the productions of their soil and industry, as stipulated by the separate act of the treaty of Akerman, the same not to be liable to any other restraint, except such as the hospodars, with the consent of their divans, may consider necessary to the due provisioning of the country; they shall be allowed to navigate the Danube with their own vessels, being provided with passports from their own governments; and it shall be lawful for them to proceed, for the purpose of trade, to the other harbours and ports of the Sublime Porte, without suffering any persecution from the collectors of the Kharadsh, and without being exposed to any other act of oppression whatever.

Duly considering, moreover, all the burdens which it has been necessary for Moldavia and

Wallachia to support the Sublime Porte, animated by a proper feeling of humanity, consents to release the inhabitants from the yearly tribute payable to the treasury for the space of two years, to be reckoned from the day of the total evacuation of the principalities by the Russian troops.

Finally, the Sublime Porte, animated by the wish to secure, in every possible way, the future prosperity of the two principalities, binds itself to confirm every administrative measure which, during their occupation by the Russian army, may have been decreed, in conformity to a wish expressed in the assemblies of the principal inhabitants of the country, such decrees serving thenceforward as the basis of the internal administration of those provinces: provided always, that such decrees do not, in any way infringe upon the rights of sovereignty vested in the Sublime Porte.

On this account, we, the undersigned plenipotentiaries of his majesty, the emperor and padishah of all the Russias, have, conjointly with the plenipotentiaries of the Sublime Ottoman Porto regulated and fixed the points respecting Moldavia and Wallachia, the same being a continuation of article 5 of the treaty of peace concluded at Adrianople, between us and the Ottoman plenipotentiaries.

Done at Adrianople, 2d (14th) September, 1829.

(Signed)

COUNT ALEXIS ORLOFF,

COUNT F. V. PARLEN.

Confirmed in the original copy by Count DIEBITSCH ZABALKANSKY, *Commander-in-chief of the second army.*

No. 43. *Convention relative to the Sovereignty of Greece, between His Majesty the King of Great Britain, His Majesty the King of the French, and the Emperor of all the Russias, on the one part, and the King of Bavaria, on the other. Signed at London, May 7, 1832.*

The Courts of Great Britain, France, and Russia, exercising the power conveyed to them by the Greek nation, to make choice of a Sovereign for Greece, raised to the rank of an Independent State, and being desirous of giving to that country a fresh proof of their friendly disposition, by the election of a Prince descended from a Royal House, the friendship and alliance of which cannot fail to be of essential service to Greece, and which has already acquired claims to her esteem and gratitude, have resolved to offer the Crown of the new Greek State to the Prince Frederick Otho of Bavaria, second son of His Majesty the King of Bavaria.

His Majesty the King of Bavaria, on his part, acting in the character of guardian of the said Prince Otho during his minority, participating in the views of the three Courts, and duly appreciating the motives which have induced them to fix their choice upon a Prince of his House, has determined to accept the Crown of Greece for his second son, the Prince Frederick Otho of Bavaria.

In consequence of such acceptance, and for the purpose of agreeing upon the arrangements which it has rendered necessary, their Majesties the King of the United Kingdom of Great Britain and Ireland, the King of the French, and the Emperor of all the Russias, on the one part, and his Majesty the King of Bavaria, on the other, have named as their Plenipotentiaries, viz:

His Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honourable Henry John Viscount Palmerston, Baron Temple, &c. &c. &c.

His Majesty the King of the French, the Sieur Charles Maurice de Talleyrand-Perigord, Prince-Duke de Talleyrand, &c. &c. &c.

His Majesty the Emperor of all the Russias, the Sieur Christopher Prince of Lieven, General of Infantry in his Armies, &c. &c. &c. And the Sieur Adam, Count Matuszewic, Privy Councillor of his said Majesty, &c. &c. &c.

And his Majesty the King of Bavaria, the Sieur Augustus, Baron de Cetto, his Envoy Extraordinary and Minister Plenipotentiary to his Britannic Majesty:—

Who, after having exchanged their full powers, found to be in good and due form, have agreed upon and signed the following Articles:—

ART. I. The Courts of Great Britain, France, and Russia, duly authorised for this purpose by the Greek nation, offer the hereditary Sovereignty of Greece to the Prince Frederick Otho of Bavaria, second son of his Majesty the King of Bavaria.

ART. II. His Majesty the King of Bavaria, acting in the name of his said son, a minor, accepts, on his behalf, the hereditary Sovereignty of Greece, on the conditions hereinafter settled.

ART. III. The Prince Otho of Bavaria shall bear the title of King of Greece.

ART. IV. Greece, under the sovereignty of the Prince Otho of Bavaria, and under the guarantee of the three Courts, shall form a Monarchical and independent State, according to the terms of the Protocol, signed between the said Courts, on the 3d of February, 1830,* and accepted both by Greece and by the Ottoman Porte.

ART. V. The limits of the Greek State shall be such as shall be definitively settled by the negotiations which the Courts of Great Britain, France, and Russia, have recently opened with the Ottoman Porte, in execution of the Protocol of the 26th Sept. 1831.

ART. VI. The three Courts having beforehand determined to convert the Protocol of the 3d of February, 1830, into a definitive Treaty, as soon as the negotiations relative to the limits of Greece shall have determined, and to communicate such Treaty to all the States with which they have relations, it is hereby agreed that they shall fulfil this engagement, and that his Majesty the King of Greece shall become a contracting party to the treaty in question.

ART. VII. The three Courts shall, from the present moment, use their influence to procure the recognition of the Prince Otho of Bavaria as King of Greece, by all the Sovereigns and States with whom they have relations.

ART. VIII. The Royal Crown and dignity shall be hereditary in Greece; and shall pass to the direct and lawful descendants and heirs of the Prince Otho of Bavaria, in the order of primogeniture. In the event of the decease of Prince Otho of Bavaria without direct and lawful issue, the Crown of Greece shall pass to his younger brother, and to his direct and lawful descendants and heirs, in the order of primogeniture. In the event of the decease of the last-mentioned Prince also, without direct and lawful issue, the Crown of Greece

* See page 221.

shall pass to his younger brother and to his direct and lawful descendants and heirs, in the order of primogeniture.

In no case shall the Crown of Greece and the Crown of Bavaria be united upon the same head.

ART. IX. The majority of the Prince Otho of Bavaria, as King of Greece, is fixed at the period when he shall have completed his 20th year—that is to say, on the 1st of June, 1835.

ART. X. During the minority of the Prince Otho Bavaria King of Greece, his rights of Sovereignty shall be exercised in their full extent by a Regency, composed of three Councillors, who shall be appointed by his Majesty the King of Bavaria.

ART. XI. The Prince Otho of Bavaria shall retain the full possession of his appanages in Bavaria. His Majesty the King of Bavaria, moreover engages to assist, as far as may be in his power, the Prince Otho in his position in Greece, until a revenue shall have been set apart for the Crown in that State.

ART. XII. In execution of the stipulations of the Protocol of the 3d. of February, 1830, his Majesty the Emperor of All the Russias engages to guarantee, and their Majesties the King of the United Kingdom of Great Britain and Ireland and the King of the French, engage to recommend, the former to his Parliament, the latter to his Chambers, to enable their Majesties to guarantee, on, the following conditions, a loan to be contracted by the Prince Otho of Bavaria, as King of Greece.

1. The principal of the loan to be contracted under the guarantee of the three Powers shall not exceed a total amount of 60,000,000 of francs.

2. The said loan shall be raised by instalments of 20,000,000 of francs each.

3. For the present, the first instalment only shall be raised, and the three Courts shall each become responsible for the payment of one-third of the annual amount of the interest and sinking fund of the instalment.

4. The second and the third instalments of the said loan may also be raised according to the necessities of the Greek State, after previous agreement between the three Courts and his majesty the King of Greece.

5. In the event of the second and third instalments of the above mentioned loan being raised in consequence of such an agreement, the three Courts shall each become responsible for the payment of one-third of the annual amount of the interest and sinking fund of these two instalments, as well as of the first.

6. The Sovereign of Greece and the Greek State shall be bound to appropriate to the payment of the interest and sinking fund of such instalments of the loan as may have been raised under the guarantee of the three Courts, the first revenues of the State, in such manner that the actual receipts of the Greek Treasury shall be devoted, first of all, to the payment of the said interest and sinking fund, and shall not be employed for any other purpose, until those payments on account of the instalments of the loan raised under the guarantee of the three Courts shall have been completely secured for the current year.

The diplomatic representatives of the three Courts in Greece shall be specially charged to watch over the fulfilment of the last-mentioned stipulation.

ART. XIII. In case a pecuniary compensation in favour of the Ottoman Porte should result from the negotiation which the three Courts have already opened at Constantinople for the definitive settlement of the limits of Greece, it is understood that the amount of such compensation shall be defrayed out of the proceeds of the loan which forms the subject of the preceding Article.

ART. XIV. His M. the King of Bavaria shall lend his assistance to the Prince Otho in raising in Bavaria a body of troops, not exceeding 3,500 men, to be employed in his service, as King of Greece, which corps shall be armed, equipped and paid by the Greek State, and be sent thither as soon as possible, in order to relieve the troops of the Alliance hitherto stationed in Greece. The latter shall remain in that country entirely at the disposal of the Government of his Majesty the King of Greece, until the arrival of the body of troops above-mentioned. Immediately upon their arrival, the troops of the Alliance already referred to shall retire and altogether evacuate the Greek territory.

ART. XV. His M. the King of Bavaria shall also assist the Prince Otho in obtaining the services of a certain number of Bavarian officers, who shall organize a national military force in Greece.

ART. XVI. As soon as possible after the signature of the present convention the three Councillors who are to be associated with his Royal Highness the Prince Otho by his Majesty the King of Bavaria, in order to compose the Regency of Greece, shall repair to Greece, shall enter upon the exercise of the functions of the said Regency, and shall prepare all the measures necessary for the reception of the sovereign, who, on his part, will repair to Greece with as little delay as possible.

ART. XVII. The three courts shall announce to the Greek nation by a joint declaration, the choice which they have made of his Royal Highness the Prince Otho of Bavaria as King of Greece, and shall afford the Regency all the support in their power.

ART. XVIII. The present convention shall be ratified, and the ratifications shall be exchanged in London in six weeks, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and affixed thereto the seals of their arms.

Done at London the 7th day of May, in the year of our Lord, 1832.

[L. S.] PALMERSTON.
[L. S.] TALLEYRAND.
[L. S.] LIEVEN.

[L. S.] MATUSZEWIC.
[L. S.] A. DE CETTO.

No. 44. *Greek Protocol February 3, 1830 [referred to in page 218].*

Official copy of the Conference held at London, in the Foreign Office.

Present, the Plenipotentiaries of France, Great Britain and Russia.

At the opening of the conference, the Plenipotentiaries of his Britannic Majesty, and of his most Christian Majesty, expressed to the Plenipotentiary of his Imperial Majesty, their wish to be informed in what point of view he considered the tenth article of the treaty recently signed at Adrianople, between Russia and the Ottoman Empire—an article which has respect to the affairs of Greece. The Plenipotentiary of his Imperial Majesty declared that the tenth article of the treaty in question did not invalidate the rights of the Allies of the Emperor, shackle the deliberations of the Ministers assembled in conference at London, nor place any obstacles in the way of the arrangements which the three Courts should by common consent adjudge to be most useful, and best adapted to circumstances. After this declaration, the Plenipotentiary of his Britannic Majesty produced to the conference a joint despatch, in which the Ambassadors of Great Britain and France at Constantinople transmitted a declaration of the Porte, dated 9th of September, announcing that 'that the Porte, having already adhered to the Treaty of London, now promises and engages, in addition, in the presence of the Representative of the Powers—parties to the treaty aforesaid, to subscribe entirely to all the determinations which the conference at London may decide on relative to its execution.' The reading of this document caused a unanimous recognition of the obligation which the Alliance was under, to proceed, in the first place, to the immediate establishment of an armistice by land and sea, between the Turks and Greeks. It is resolved, in consequence, that the Plenipotentiaries of the three Courts at Constantinople, their Residents in Greece, and the Admirals in the Archipelago, shall receive, without delay, an order to demand and obtain from the contending parties, a prompt and entire cessation of hostilities.

To this effect, instructions were agreed upon, and issued to the aforesaid Plenipotentiaries and Residents, and also to the three Admirals, for the re-establishment of peace between Russia and the Porte, permitting the Russian Admiral to take part in the operations of his colleagues of England and France. The first resolutions being agreed upon, the Members of the Conference, finding that the Ottoman declarations placed them in the position of concerning such measures as to them should appear preferable to adopt in the actual state of affairs, and being desirous of adding to the anterior dispositions of the Alliance such ameliorations as might be most conducive to the assuring new pledges for the stability of the peace about which they were employed, have, by common consent, issued the following clauses—

First. Greece shall form an independent state, and shall enjoy all the rights, political, administrative, and commercial, attached to complete independence.

Second. In consideration of these advantages granted to the new State, and in deference to the wish expressed by the Porte to obtain a reduction of the frontiers fixed by the Protocol of the 22d March, the line of demarcation of the Grecian boundaries, commencing at the mouth of the River Aspropotamos, shall run up that river as high as the Lake d'Anghelo Castro, crossing which, as well as those of Vrachori and Saurovitza, it shall abut to Mount Artolina, whence it shall follow the crest of Mount Oita, as far as the gulf of Zeitoun, whence it reaches the mouth of the Sperchio. All the lands and territories situate to the south of this line which the conference has specially indicated shall belong to Greece; and all the lands and territories to the north of the same line shall continue to form part of the Ottoman empire. The whole Island of Negropont and the isles Du Diable shall equally belong to Greece, together with the island of Skyros and those anciently comprised under the name of the Cyclades, situate between 36 and 39 degrees of north latitude, and 26 and 29 degrees of longitude from the meridian of Greenwich.

Third. The Government of Greece shall be monarchical and hereditary, by order of primogeniture; it shall be confided to a Prince who shall not be selected from the reigning families of the States subscribing to the Treaty of the 6th July, 1827, and who shall bear the title of Sovereign Prince of Greece. The choice of this Prince shall be the subject of ulterior communications and stipulations.

Fourth. As soon as the clauses of the present Protocol shall have been communicated to the parties interested, peace between the Ottoman Empire and Greece shall be considered as *ipso facto* established; and the subjects of the two states shall be reciprocally treated as respects the rights of commerce and navigation, as those of other States at peace with the Ottoman Empire and with Greece.

Fifth. Acts of Amnesty, full and entire, shall be immediately published by the Ottoman Porte and the Greek Government.

The Act of Amnesty of the Porte shall proclaim that no Greek in the whole extent of its dominions shall be deprived of his property, or disturbed in consequence of any part he may have taken in the Greek insurrection.

The Act of Amnesty of the Greek Government shall proclaim the same principle in favor of all Mussulmans or Christians who shall have taken part against its cause; and it shall be, moreover, understood and published, that all Mussulmans who shall wish to continue to inhabit the territories and islands assigned to Greece, shall, together with their families, enjoy invariably the most perfect security.

Sixth. The Ottoman Porte shall grant to such of its Greek subjects as shall desire to quit the Turkish territory the delay of a year, for the purpose of disposing of their property, and free egress from the country. The Greek Government shall afford the same liberty to the inhabitants of Greece who shall wish to transport themselves into the Turkish territories.

Seventh. All the Grecian forces, both by land and sea, shall evacuate the territories, places and islands which they may occupy beyond the line assigned as the limits of Greece in the 2d Article, and shall retire within the same line with the least possible delay. All the Turkish troops, by land and sea, which occupy territories, or places or islands comprised within the limits above-mentioned, shall evacuate those islands, places and territories, and retire within the limits aforesaid, and equally with the least possible delay.

Eighth. Each of the three Courts shall retain the power assured to it by the 6th Article of the Treaty of 6th July, 1827, of guarantying, in concert, the preceding clauses. The execution of carrying into effect these different acts shall become, pursuant to the aforesaid Article, the subject of ulterior stipulations between the high contracting parties. No troops belonging to either of the high contracting parties shall enter the territory of the new State without the consent of the other two subscribers to the Treaty.

Ninth. In order to avoid the collisions which can hardly fail, under existing circumstances, to arise from a contact between the Commissioners for the Greek demarcation, when they shall be engaged in tracing out the Grecian frontiers, it is agreed that this task shall be confided to British, French, and Russian Commissioners, and that each of the three Courts shall nominate one. These Commissioners, furnished with similar instructions, shall trace out the above-mentioned frontier, following with all possible accuracy the line indicated in the second article; they shall mark this line by boundary posts, and shall draw up two papers, signed by themselves, one of which shall be transmitted to the Ottoman government, the other to that of Greece. They shall be directed to complete their labors within the space of six months. In case of any difference of opinion between the Commissioners, the majority of votes shall decide.

Tenth. The provisions of the present Protocol shall be immediately transmitted to the Ottoman government by the Plenipotentiaries of the three Courts, who shall be furnished with common and joint instructions to this effect. The Residents in Greece belonging to the three Courts reserve to themselves the power of inserting the present stipulations in a formal treaty, to be signed at London, to be considered as carrying into execution that of the 6th July 1827, and to be communicated to the European Courts, with an invitation to them to accede to it, if they shall think proper.

In conclusion—Having thus reached the end of a long and difficult negotiation, the three Courts congratulate each other sincerely on the perfect unanimity which has prevailed between in the midst of circumstances the most delicate and important. The maintenance of this unanimity in such moments presents the best pledge of its durability; and the three Courts flatter themselves that this union, equally firm and beneficial, will not fail to contribute to the consolidation of the peace of the whole world.

No. 45. *Treaty of Amity, Commerce, and Navigation, between Great Britain and Mexico.* Signed at London, December 26, 1826.

In the Name of the Most Holy Trinity.

Extensive commercial intercourse having been established, for some time, between the dominions of His Britannic Majesty and the United States of Mexico, it seems good for the security, as well as the encouragement of such commercial intercourse, and for the maintenance of good understanding between His said Britannic Majesty and the said States, that the relations now subsisting between them should be regularly acknowledged and confirmed, by the signature of a Treaty of Amity, Commerce, and Navigation.

For this purpose they have named their respective Plenipotentiaries, that is to say:

His Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honourable William Huskisson, a Member of His said Majesty's Most Honourable Privy Council, &c. and James Morier, Esq:—

And His Excellency the President of the United States of Mexico, His Excellency Señor Sebastian Camacho, His First Minister of State, and for the Department of Foreign Affairs:

Who, after having communicated to each other their full powers, found to be in due and proper form, have agreed upon and concluded the following Articles:—

ART. I. There shall be perpetual amity between the dominions and subjects of His Majesty the King of the United Kingdom of Great Britain and Ireland, and the United States of Mexico, and their citizens.

ART. II. There shall be, between all the territories of His B. Majesty in Europe and the territories of Mexico, a reciprocal freedom of commerce. The inhabitants of the two countries, respectively, shall have liberty freely and securely to come, with their ships and cargoes, to all places, ports and rivers in the territories aforesaid, saving only such particular ports to which other foreigners shall not be permitted to come, to enter into the same, and to remain and reside in any part of the said territories respectively; also to hire and occupy houses and warehouses for the purposes of their commerce; and, generally, the merchants and traders of each nation, respectively, shall enjoy the most complete protection and security for their commerce.

In like manner, the respective ships of war, and post-office packets of the two countries, shall have liberty freely and securely to come to all harbours, rivers and places, saving only such particular ports (if any) to which other foreign ships of war and packets shall not be permitted to come, to enter into the same, to anchor, and to remain there and refit; subject always to the laws and statutes of the two countries, respectively.

By the right of entering the places, ports and rivers mentioned in this Article, the privilege of carrying on the coasting trade is not understood, in which national vessels only are permitted to engage.

ART. III. His Majesty the King of the United Kingdom of G. Britain and

Ireland engages further, that the inhabitants of Mexico shall have the like liberty of commerce and navigation stipulated for in the preceding Article, in all his dominions situated out of Europe, to the full extent in which the same is permitted at present, or shall be permitted hereafter, to any other nation.

IV. No higher or other duties shall be imposed on the importation into the dominions of His Britannic Majesty, of any article of the growth, produce, or manufacture of Mexico, and no higher or other duties shall be imposed on the importation into the territories of Mexico, of any articles of the growth, produce or manufacture, of His Britannic Majesty's dominions, than are or shall be payable on the like articles, being the growth, produce, or manufacture of any other foreign country; nor shall any other or higher duties or charges be imposed in the territories or dominions of either of the Contracting Parties, on the exportation of any articles to the territories of the other, than such as are or may be payable on the exportation of the like articles to any other foreign country; nor shall any prohibition be imposed upon the exportation of any articles the growth, produce, or manufacture of His Britannic Majesty's dominions, or of the said territories of Mexico, to or from the said territories of Mexico, which shall not equally extend to all other nations.

V. No higher or other duties or charges on account of tonnage, light or harbour dues, pilotage, salvage in case of damage or shipwreck, or any other local charges, shall be imposed, in any of the ports of Mexico, on British vessels, than those payable, in the same ports by Mexican vessels; nor in the ports of His Britannic Majesty's territories, on Mexican vessels, than shall be payable, in the same ports, on British vessels.

VI. The same duties shall be paid on the importation into the territories of Mexico, of any article the growth, produce, or manufacture of His Britannic Majesty's dominions, whether such importation shall be in Mexican or in British vessels; and the same duties shall be paid on the importation into the dominions of His Britannic Majesty, of any article the growth, produce, or manufacture of Mexico, whether such importation shall be in British or in Mexican vessels. The same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation to Mexico of any articles of the growth, produce, or manufacture of His Britannic Majesty's dominions, whether such exportation shall be in Mexican or in British vessels; and the same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation of any articles, the growth, produce or manufacture of Mexico, to His Britannic Majesty's dominions, whether such exportation shall be in British or in Mexican vessels.

VII. In order to avoid any misunderstanding with respect to the regulations which may respectively constitute a British or Mexican vessel, it is hereby agreed that all vessels built in the dominions of His Britannic Majesty, or vessels which shall have been captured from an enemy by His Britannic

Majesty's ships of war, or by subjects of His said Majesty furnished with letters of marque by the Lords Commissioners of the Admiralty, and regularly condemned in one of His said Majesty's Prize Courts as a lawful prize, or which shall have been condemned in any competent Court for the breach of the laws made for the prevention of the Slave Trade, and owned, navigated, and registered according to the laws of Great Britain, shall be considered as British vessels: and that all vessels built in the territories of Mexico, or captured from the enemy by the ships of Mexico, and condemned under similar circumstances, and which shall be owned by any citizen or citizens thereof, and whereof the master and three fourths of the mariners are citizens of Mexico, excepting where the laws provide for any extreme cases, shall be considered as Mexican vessels.

And it is further agreed, that every vessel, qualified to trade as above described, under the provisions of this Treaty, shall be furnished with a register, passport, or sea letter, under the signature of the proper person authorized to grant the same, according to the laws of the respective countries, (the form of which shall be communicated,) certifying the name, occupation, and residence of the owner or owners, in the dominions of His B. Majesty, or in the territories of Mexico, as the case may be; and that he, or they, is, or are, the sole owner or owners, in the proportion to be specified; together with the name burthen, and description of the vessel, as to built and measurement, and the several particulars constituting the national character of the vessel, as the case may be.

VIII. All merchants, commanders of ships, and others, the subjects of His Britannic Majesty, shall have full liberty, in all the territories of Mexico, to manage their own affairs themselves, or to commit them to the management of whomsoever they please, as broker, factor, agent, or interpreter; nor shall they be obliged to employ any other persons for those purposes than those employed by Mexicans, nor to pay them any other salary or remuneration than such as is paid, in like cases, by Mexican citizens; and absolute freedom shall be allowed, in all cases, to the buyer and seller, to bargain and fix the price of any goods, wares, or merchandise, imported into, or exported from Mexico, as they shall see good, observing the laws and established customs of the country. The same privileges shall be enjoyed in the dominions of His Britannic Majesty, by the citizens of Mexico, under the same conditions.

The citizens and subjects of the Contracting Parties, in the territories of each other, shall receive and enjoy full and perfect protection for their persons and property, and shall have free and open access to the Courts of Justice in the said countries, respectively, for the prosecution and defence of their just rights; and they shall be at liberty to employ, in all causes, the advocates, attorneys, or agents of whatever description, whom they may think proper; and they shall enjoy, in this respect, the same rights and privileges therein, as native citizens.

IX. In whatever relates to the succession to personal estates, by will or otherwise, and the disposal of personal property of every sort and denomination, by sale, donation, exchange, or testament, or in any other manner whatsoever, as also the administration of justice, the subjects and citizens of the two Contracting Parties shall enjoy, in their respective dominions and territories, the same privileges, liberties, and rights, as native subjects; and shall not be charged, in any of these respects, with any higher imposts or duties, than those which are paid, or may be paid, by the native subjects or citizens of the power in whose dominions or territories they may be resident.

X. In all that relates to the police of the ports, the lading and unlading of ships, the safety of merchandize, goods, and effects, the subjects of His Britannic Majesty, and the citizens of Mexico, respectively, shall be subject to the local laws and regulations of the dominions and territories in which they may reside. They shall be exempted from all compulsory military service, whether by sea or land. No forced loans shall be levied upon them; nor shall their property be subject to any other charges, requisitions or taxes, than such as are paid by the native subjects or citizens of the Contracting Parties, in their respective dominions.

XI. It shall be free for each of the two Contracting Parties to appoint Consuls for the protection of trade, to reside in the dominions and territories of the other party: but, before any Consul shall act as such, he shall, in the usual form, be approved and admitted by the Government to which he is sent; and either of the Contracting Parties may except from the residence of Consuls such particular places as either of them may judge fit to be excepted. The Mexican diplomatic Agents and Consuls shall enjoy, in the dominions of His Britannic Majesty, whatever privileges, exceptions, and immunities are or shall be granted to Agents of the same rank belonging to the most favoured nation: and, in like manner, the diplomatic Agents and Consuls of His Britannic Majesty in the Mexican territories shall enjoy, according to the strictest reciprocity, whatever privileges, exceptions, and immunities are or may be granted to the Mexican diplomatic Agents and Consuls in the dominions of His Britannic Majesty.

XII. For the better security of commerce between the subjects of His Britannic Majesty and the citizens of the Mexican States, it is agreed that if, at any time, any interruption of friendly intercourse, or any rupture should unfortunately take place between the two Contracting Parties, the merchants residing upon the coasts shall be allowed 6 months, and those of the interior a whole year, to wind up their accounts, and dispose of their property; and that a safe conduct shall be given them to embark at the port which they shall themselves select. All those who are established in the respective dominions and territories of the two Contracting Parties, in the exercise of any trade or special employment, shall have the privilege of remaining and continuing such trade and employment therein, without any manner of interruption, in full

enjoyment of their liberty and property, as long as they behave peaceably, and commit no offence against the laws; and their goods and effects, of whatever description they may be, shall not be liable to seizure or sequestration, or to any other charges or demands than those which may be made upon the like effects or property, belonging to the native subjects or citizens of the respective dominions or territories in which such subjects or citizens may reside. In the same case, debts between individuals, public funds, and the shares of companies, shall never be confiscated, sequestered, or detained.

XIII. The subjects of His Britannic Majesty, residing in the Mexican territories, shall enjoy, in their houses, persons and properties, the protection of the Government; and, continuing in possession of what they now enjoy, they shall not be disturbed, molested, or annoyed, in any manner, on account, of their religion, provided they respect that of the nation in which they reside, as well as the constitution, laws, and customs of the country. They shall continue to enjoy, to the full, the privilege already granted to them of burying, in the places already assigned for that purpose, such subjects of His Britannic Majesty as may die within the Mexican territories; nor shall the funerals and sepulchres of the dead be disturbed in any way, or upon any account. The citizens of Mexico shall enjoy in all the dominions of His Britannic Majesty, the same protection, and shall be allowed the free exercise of their religion, in public or private, either within their own houses, or in the chapels and places of worship set apart for that purpose.

XIV. The subjects of His Britannic Majesty, shall, on no account or pretext whatsoever, be disturbed or molested in the peaceable possession and exercise of whatever rights, privileges, and immunities they have at any time enjoyed within the limits described and laid down in a Convention, signed between His said Majesty and the King of Spain, on the 14th of July 1786;* whether such rights, privileges, and immunities shall be derived from the stipulations of the said Convention, or from any other concession which may at any time, have been made by the King of Spain, or his predecessors, to British subjects and settlers residing and following their lawful occupations within the limits aforesaid: the two Contracting Parties reserving, however, for some more fitting opportunity, the further arrangements on this Article.

XV. The Government of Mexico engages to co-operate with His Britannic Majesty for the total abolition of the Slave Trade, and to prohibit all persons inhabiting within the territories of Mexico, in the most effectual manner, from taking any share in such trade.

XVI. The two Contracting Parties reserve to themselves the right of treating and agreeing hereafter, from time to time, upon such other Articles as may appear to them to contribute still further to the improvement of their mutual intercourse, and the advancement of the general interests of their

* See Vol. II. Page 192.

respective subjects and citizens; and such Articles as may be so agreed upon, shall, when duly ratified, be regarded as forming a part of the present Treaty, and shall have the same force as those now contained in it.

XVII. The present Treaty shall be ratified, and the ratifications shall be exchanged at London, within the space of 6 months or sooner if possible.

To witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London, the 26th of December, in the year of our Lord 1826.

[L. S.] WILLIAM HUSKISSON.
[L. S.] JAMES J. MORIER.

[L. S.] SEBASTIAN CAMACHO.

ADDITIONAL ARTICLES.

I. Whereas in the present state of Mexican shipping, it would not be possible for Mexico to receive the full advantage of the reciprocity established by the Articles V. VI. VII. of the Treaty signed this day, if that part of the VIIIth Article which stipulates that, in order to be considered as a Mexican ship, a ship shall actually have been built in Mexico, should be strictly and literally observed, and immediately brought into operation,—it is agreed that, for the space of 10 years, to be reckoned from the date of the exchange of the ratifications of this Treaty, any ships, where-soever built, being *bona fide* the property of, and wholly owned by, one or more citizens of Mexico, and whereof the master and three-fourths of the mariners, at least, are also natural born citizens of Mexico, or persons domiciled in Mexico, by act of the Government, as lawful subjects of Mexico, to be certified according to the laws of that country, shall be considered as Mexican ships; His Majesty the King of the United Kingdom of Great Britain and Ireland, reserving to himself the right, at the end of the said term of 10 years, to claim the principle of reciprocal restriction stipulated for in the Article VII. above referred to, if the interests of British navigation shall be found to be prejudiced by the present exception to that reciprocity, in favour of Mexican shipping.

II. It is further agreed that, for the like term of 10 years, the stipulations contained in Articles V and VI. of the present Treaty shall be suspended; and, in lieu thereof, it is hereby agreed that, until the expiration of the said term of 10 years, British ships entering into the ports of Mexico, from the United Kingdom of Great Britain and Ireland, or any other of His Britannic Majesty's dominions, and all articles the growth, produce, or manufacture of the United Kingdom, or of any of the said dominions, imported in such ships, shall pay no other or higher duties than are or may hereafter be payable, in the said ports, by the ships, and the like goods, the growth produce, or manufacture of the most favoured nation; and, reciprocally, it is agreed that Mexican ships, entering into the ports of the United Kingdom of Great Britain and Ireland, or any other of His Britannic Majesty's dominions, from any port of the States of Mexico, and all articles the growth, produce, or manufacture of the said States, imported in such ships, shall pay no other or higher duties than are or may hereafter be payable, in the said ports, by the ships and the like goods, the growth, produce, or manufacture of the most favoured nation; and that no higher duties shall be paid, or bounties or drawbacks allowed, on the exportation of any article the growth, produce, or manufacture of the dominions of either country, in the ships of the other, than upon the exportation of the like articles in the ships of any other foreign country.

It being understood that, at the end of the said term of 10 years, the stipulations of the said VIIIth and VIIIth Articles shall, from thenceforward, be in full force between the two countries.

The present Additional Articles shall have the same force and validity as if they were inserted, word for word, in the Treaty signed this day. They shall be ratified, and the ratifications shall be exchanged at the same time.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London, the 26th day of December, in the year of our Lord 1826.

[L. S.] WILLIAM HUSKISSON. [L. S.] JAMES J. MORIER. [L. S.] SEBASTIAN CAMACHO.

No. 46. *Treaty of Amity, Commerce, and Navigation, between Great Britain and Colombia. Signed at Bogota, 18th April, 1825.*

In the Name of the Most Holy Trinity.

Extensive commercial intercourse having been established for a series of years between the dominions of His Britannic Majesty, and the several Provinces or Countries of America, which (now united) constitute the State of Colombia, it seems good for the security as well as encouragement of such commercial intercourse, and for the maintenance of good understanding between His said Britannic Majesty and the said State, that the relations now subsisting between them should be regularly acknowledged and confirmed, by the signature of a Treaty of Amity, Commerce, and Navigation. For this purpose they have named their respective Plenipotentiaries, that is to say;—His Majesty the King of the United Kingdom of Great Britain and Ireland, John Potter Hamilton, Esq. and Patrick Campbell, Esq.;—and the Vice President charged with the Executive Power of the State of Colombia, Pedro Gual, Secretary of State in the department for Foreign Affairs; and General Pedro Briceno Meudez;—who, after having communicated to each other, their respective full powers, found to be in due and proper form, have agreed upon and concluded the following Articles:—

ART. 1. There shall be perpetual, firm, and sincere amity between the dominions and subjects of His Majesty the King of the United Kingdom of Great Britain and Ireland, His Heirs and Successors, and the State and People of Colombia.

ART. 2. There shall be, between all the territories of His Britannic Majesty in Europe, and the territories of Colombia, a reciprocal freedom of commerce. The subjects and citizens of the two countries, respectively, shall have liberty, freely and securely to come, with their ships and cargoes, to all such places, ports, and rivers, in the territories aforesaid, to which other foreigners are or may be permitted to come, to enter into the same, and to remain and reside in any part of the said territories, respectively: also to hire and occupy houses and warehouses for the purposes of their commerce; and, generally, the merchants and traders of each nation, respectively, shall enjoy the most complete protection and security for their commerce; subject always to the laws and statutes of the two countries, respectively.

ART. 3. His Majesty the King of the United Kingdom of Great Britain and Ireland engages further, that the citizens of Colombia shall have the like liberty of commerce and navigation stipulated for in the preceding Article, in all his dominions situated out of Europe, to the full extent in which the same is permitted at present, or shall be permitted hereafter, to any other nation.

ART. 4. No higher or other duties shall be imposed on the importation into the territories of His Britannic Majesty, of any articles of the growth, produce, or manufacture of Colombia,—and no higher or other duties shall be imposed on the importation into the territories of Colombia, of any articles of

the growth, produce, or manufacture of His Britannic Majesty's dominions, than are or shall be payable on the like articles, being the growth, produce, or manufacture of any other foreign country; nor shall any other or higher duties or charges be imposed, in the territories or dominions of either of the Contracting Parties, on the exportation of any articles to the territories or dominions of the other, than such as are or may be payable on the exportation of the like articles to any other foreign country: nor shall any prohibition be imposed upon the exportation or importation of any articles the growth, produce, or manufacture of His Britannic Majesty's dominions, or of the said territories of Colombia, to or from the said dominions of His Britannic Majesty, or to or from the said territories of Colombia, which shall not equally extend to all other nations.

ART. 5. No higher or other duties or charges on account of tonnage, light, or harbour dues, pilotage, salvage in case of damage or shipwreck, or any other local charges, shall be imposed, in any of the ports of Colombia, on British vessels, than those payable, in the same ports, by Colombian vessels; nor, in the ports of His Britannic Majesty's territories, on Colombian vessels, than shall be payable, in the same ports, on British vessels.

ART. 6. The same duties shall be paid on the importation into the territories of Colombia of any article of the growth, produce, or manufacture of His Britannic Majesty's dominions, whether such importation shall be in Colombian or in British vessels; and the same duties shall be paid on the importation into the dominions of His Britannic Majesty of any article of the growth, produce, or manufacture of Colombia, whether such importation shall be in British or Colombian vessels. The same duties shall be paid, and the same drawbacks and bounties allowed, on the exportation to Colombia of any articles of the growth, produce, or manufacture of His Britannic Majesty's dominions, whether such exportation shall be in Colombian or in British vessels; and the same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation of any articles the growth, produce or manufacture of Colombia, to His Britannic Majesty's dominions, whether such exportation shall be in British or Colombian vessels.

ART. 7. In order to avoid any misunderstanding with respect to the regulations which may respectively constitute a British or a Colombian vessel, it is hereby agreed, that all vessels built in the dominions of His Britannic Majesty, and owned by British subjects, or by any of them, and whereof the master and three-fourths of the mariners, at least, are British subjects excepting where the laws provide for any extreme cases, shall be considered as British vessels; and that all vessels built in the territories of Colombia, and owned by the citizens thereof, or any of them, and whereof the masters and three-fourths of the mariners, at least, are Colombian citizens, excepting where the laws provide for any extreme cases, shall be considered as Colombian vessels.

ART. 8. All merchants, commanders of ships, and others, the subjects of

His Britannic Majesty, or citizens of the State of Colombia, shall have full liberty, in all the territories of both powers, respectively, to manage their own affairs themselves, or to commit them to the management of whomsoever they please, as broker, factor, agent, or interpreter; nor shall they be obliged to employ any other persons for those purposes, nor to pay them any salary or remuneration unless they shall choose to employ them; and absolute freedom shall be allowed, in all cases, to buyer and seller, to bargain and fix the price of any goods, wares, or merchandize imported into, or exported from, the territories of either of the Contracting Parties, as they shall see good.

ART. 9. In whatever relates to the lading and unlading of ships, the safety of merchandize, goods, and effects, the succession to personal estates, and the disposal of personal property of every sort and denomination, by sale, donation, exchange, or testament, or in any other manner whatsoever, as also the administration of justice, the subjects and citizens of the two Contracting Parties shall enjoy, in their respective dominions and territories, the same privileges, liberties, and rights as the most favoured nation, and shall not be charged, in any of these respects, with any higher imports or duties than those which are paid, or may be paid, by the native subjects or citizens of the Power in whose dominions or territories they may be resident.

They shall be exempted from all compulsory military service whatsoever, whether by sea or land, and from all forced loans, or military exactions and requisitions; neither shall they be compelled to pay any ordinary taxes, under any pretext whatsoever, greater than those that are paid by the subjects or citizens of one or other Power.

ART. 10 It shall be free for each of the two Contracting Parties to appoint Consuls for the protection of trade, to reside in the dominions and territories of the other party; but before any Consul shall act as such, he shall, in the usual form, be approved and admitted by the Government to which he is sent, and either of the Contracting Parties may except from the residence of Consuls, such particular places as either of them may judge fit to be so excepted.

ART. 11. For the better security of commerce between the subjects of His Britannic Majesty, and the citizens of Colombia, it is agreed, that if, at any time, any interruption of friendly commercial intercourse, or any rupture should unfortunately take place between the two Contracting Parties, the subjects or citizens of either of the two Contracting Parties residing in the dominions of the other, shall have the privilege of remaining and continuing their trade therein, without any manner of interruption, so long as they behave peaceably, and commit no offence against the laws; and their effects and property, whether entrusted to individuals or to the State, shall not be liable to seizure or sequestration, or to any other demands than those which may be made upon the like effects or property, belonging to the native inhabitants of the State in which such subjects or citizens may reside.

ART. 12. The subjects of His Britannic Majesty residing in the territories of the State of Colombia, shall enjoy the most perfect and entire security of conscience, without being annoyed, prevented, or disturbed on account of their religious belief. Neither shall they be annoyed, molested, or disturbed in the proper exercise of their religion, provided that this take place in private houses, with the decorum due to divine worship, and with due respect to the laws, usages, and customs of the country. Liberty shall also be granted to bury the subjects of His Britannic Majesty, who may die in the said territories of Colombia, in convenient and adequate places, to be appointed and established by themselves for that purpose, with the knowledge of the local authorities. Nor shall the funerals or sepulchres of the dead be disturbed in any wise, nor upon any account. In the like manner, the citizens of Colombia shall enjoy, within all the dominions of His Britannic Majesty, a perfect and unrestrained liberty of conscience, and of exercising their religion publicly or privately, within their own dwelling houses, or in the chapels and places of worship appointed for that purpose, agreeably to the system of toleration established in the dominions of His said Majesty.

ART. 13. The Government of Colombia engages to co-operate with His Britannic Majesty for the total abolition of the Slave Trade, and to prohibit all persons inhabiting within the territories of Colombia, in the most effectual manner, from taking any share in such trade.

ART. 14. And for as much as it would be convenient and useful for the purpose of facilitating the mutual good understanding between the two Contracting Parties, and for avoiding all difficulties henceforward, that other Articles should be proposed and added to the present Treaty, which Articles, both from a want of due time for their consideration, as well as from the pressure of circumstances, cannot at present be drawn up with required perfection, it has been and is agreed, on the part of both Powers, that they will, with the least possible delay, come forward to treat and agree upon such Articles as may be wanting to this treaty, and deemed mutually beneficial; and which articles, when they shall be agreed upon and shall be duly ratified, shall form part of the present Treaty of Amity, Commerce, and Navigation.

ART. 15. The present Treaty shall be ratified by His Majesty the King of the United Kingdom of Great Britain and Ireland, and by the President or Vice-President charged with the Executive Power of the State of Colombia, with the consent and approbation of the Congress of the said State; and the ratifications shall be exchanged at London, within the space of 6 months, or sooner if possible.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done in the city of Bogota, the 18th day of April, in the year of our Lord
 1825. [L. S.] J. POTTER HAMILTON. [L. S.] PEDRO GUAL
 [L. S.] PATRICK CAMPBELL. [L. S.] P BRICENO MENDEZ.

ADDITIONAL ARTICLE.

Whereas in the present state of the Colombian shipping, it would not be possible for Colombia to take advantage of the reciprocity established by Articles V VI. and VII of the Treaty signed this day, if that part should be carried into immediate effect, which stipulates that in order to be considered as a Colombian ship, a ship shall actually have been built in Colombia,—it is agreed, that for the space of 7 years, to be reckoned from the date of the ratification of this Treaty, any ships, wheresoever built, being *bona fide* the property of any of the citizens of Colombia, and whereof the master and threefourths of the mariners, at least are also Colombian citizens, excepting where the laws provide for any extreme cases, shall be considered as Colombian ships—His Majesty the King of the United Kingdom of Great Britain and Ireland reserving to himself the right, at the end of the said term of 7 years, to claim the principle of reciprocal restriction stipulated for in Article VII above referred to, if the interests of British navigation shall be found to be prejudiced by the present exception to that reciprocity, in favour of Colombian shipping.

The present Additional Article shall have the same force and validity as if it were inserted, word for word, in the Treaty signed this day.—It shall be ratified, and the ratifications shall be exchanged at the same time.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done in the city of Bogota, the 18th day of April, in the year of our Lord 1825.

[L. S.] J. POTTER HAMILTON.
[L. S.] PATRICK CAMPBELL.

[L. S.] PEDRO GUAL.
[L. S.] P. BRICENO MENDEZ.

No. 47. *Treaty of Peace between the Republic of Colombia and the Republic of Peru; concluded September 22d. 1829.*

In the name of God, the author and legislator of the universe:

The republic of Colombia and the republic of Peru, sincerely desiring to put an end to the war in which they have seen themselves placed by fatal circumstances, which have prevented to both the friendly settlement of their differences, and now finding themselves happily in the condition of being able to effect it, and to establish at the same time more intimate and cordial relations, both nations have constituted and named their ministers plenipotentiary, that is to say: his excellency, the Liberator, president of the republic, has appointed Pedro Gual, citizen of the same, and his excellency the president of Peru has appointed, D. Jose Lama y Loerdo, citizen of the said republic, who, after having exchanged their full powers, and finding them in good and sufficient form, have agreed on the following articles:

ART I. There shall be a perpetual and inviolable peace, and constant and perfect friendship, between the republics of Colombia and Peru, so that hereafter, it shall not be lawful for either of them to commit or tolerate, directly or indirectly, the commission of any act of hostility against their people, citizens and subjects, respectively.

ART. II. Both contracting parties bind themselves and promise solemnly to forget all the past, endeavouring to remove every motive of disgust which the disagreements which have happily terminated, may recall; to promote their mutual well-being, and to contribute to their security and good name by every means in their power.

ART. III. Neither of the contracting parties will permit the passage through their territory, nor lend aid of any kind, to the enemies of the other; but, on the

contrary, will employ their good offices, and even their mediation, if necessary, for the re-establishment of peace whenever hostilities may break out with one or more powers, not permitting in the meanwhile an entrance in the ports of either republic to the privateers and prizes which the said enemies may make from the citizens of Colombia and Peru

ART. IV. The military forces in the department of the south of Colombia and in those of the north of Peru, shall be reduced, upon the ratification of the present treaty, to the footing of peace, so that, hereafter, it shall not be permitted to maintain in them more than the garrisons and bodies necessary and indispensable to preserve the country in security and quiet. All the prisoners taken during the present war who are now in the power of the authorities of either of the two republics, shall be sent back *en masse* to their respective countries, without the necessity of exchange or ransom.

ART. V. Both parties recognise as the limits of their respective territories the same that the ancient vice-royalties, New-Grenada and Peru, had before their independence, with the sole variations that they may think proper to agree upon between themselves, to effect which they bind themselves from this time reciprocally to make such cessions of smaller territories as may contribute to fix the dividing line in a manner more natural, exact and proper for avoiding competition and difference between the inhabitants and authorities of the frontiers.

ART. VI. In order to obtain this last result as briefly as possible, it has been agreed, and is here expressly agreed, that a commission composed of two individuals from each republic shall be appointed by both governments, which shall examine, rectify and fix the dividing line conformably to the stipulation in the previous article. This commission shall place, with the consent of its respective governments, each one in possession of the parts belonging to it, in proportion as it marks out and recognises the said line, commencing from the River Tumbes in the Pacific Ocean.

ART. VII. It is also stipulated between the contracting parties, that the commission of limits shall commence its labours forty days after the ratification of the present treaty, and shall terminate them in six months afterward. If the members of said commission shall disagree in one or more points in the course of their operations, they shall give to their respective governments a circumstantial account of every thing, in order that, taking it into consideration, they may resolve amicably upon what may be most advantageous, in the meantime, continuing their labours until their conclusion, without interruption.

ART. VIII. It has been agreed, and is here expressly agreed, that the inhabitants of the small territories who, by virtue of the fifth article, are mutually to yield *the parts agreed on*, shall enjoy the prerogatives, privileges, and exemptions which the other inhabitants of the country in which they may definitely fix their residence have or may enjoy. Those who declare before the

local authorities their intention of becoming citizens either of Colombia or Peru, shall have a year, in order to dispose, as may seem best to them, of all their moveable and immoveable goods, and to transport themselves with their families and property to the country of their choice, free from every obligation and charge whatsoever, without undergoing the least trouble or vexation whatever.

ART. IX. The navigation and commerce of the rivers and lakes which flow or may flow through the frontiers of either republic, shall be entirely free to the citizens of both, without any distinction; and under no pretext shall there be imposed upon them incumbrances or impediments of any kind in their dealings, exchanges, and reciprocal sales of those articles which may belong to lawful and free commerce, and which consist of the natural products of their respective countries, subject only to the duties, charges or emoluments to which the natives or denizens of each of the contracting parties were subject.

ART. X. It is also stipulated, that a commission, composed of two citizens on each side, shall liquidate, in the city of Lima, within the time designated in the 7th article, on the subject of boundaries, the debt, which the republic of Peru contracted with that of Colombia for the assistance lent during the late war against the common enemy. In case of the disagreement of the members, either on part of Colombia or Peru, upon one or more parts of the accounts of which they may have cognizance, they shall make to their respective governments an explanation of the motives on which their disagreement was founded, in order that the said governments may amicably determine what is just, without a cessation, however, on the part of the commission, of continuing the examination and liquidation of the other parts of the debts, until it is completely ascertained and satisfied.

No. 48. *Treaty of Peace between Peru and Bolivia; concluded July 6th, 1828, at the Village of Pequisá.*

ART. 1. In the space of fifteen days from the ratification of this treaty by the commanders-in-chief of the belligerent armies, all persons who are in the army of the Bolivian republic, and who are Colombians or foreigners, shall begin to depart from the territory of the republic.

ART. 2. There shall be excepted from the operation of the preceding article, subalterns below the grade of captain, inclusive, who may remain in the republic, renouncing the military service, but the president of the republic may, after he shall be elected, recall them to the army.

ART. 3. All other officers, who shall, by virtue of the first article, be compelled to quit the republic, may return after the national assembly shall be installed; and during their absence they shall receive half-pay from the public treasury, until the president decides whether they shall or not continue in the military service and receive full pay. The persons comprehended in the second article shall also enjoy half-pay, subject to the same conditions.

ART. 4. The squadrons of Colombian grenadiers and hussars, who are in Bolivia, shall commence their homeward route by the route which shall be designated, as far as Arica; the commander-in-chief of the Peruvian army shall furnish them with transports, the republic of Bolivia assuming to pay the expenses resulting therefrom.

ART. 5. The day after the ratification of the treaty, the commander-in-chief of the Bolivian army shall issue a decree, convoking for the first of August, the constitutional congress, which is now adjourned, and which shall re-assemble in the city of Chuquisaca, for the purpose. 1st, of receiving and accepting the resignation of the president of the republic, the grand marshal of Ayacucho, Antonio Jose de Sucre; 2d, to name a provisional government; 3d, to convoke, with all possible speed, a national assembly, to revise, modify or maintain the existing constitution.

ART. 6. This national assembly shall name and elect a president of the republic, and shall designate the day when the Peruvian army shall begin to evacuate the territory of the republic.

ART. 7. The Peruvian army shall occupy the department of Potosi until the meeting of the constitutional congress, and then it shall commence its march towards Paz and Oreoco by the department Cochabamba. It shall receive all the necessary articles of subsistence on the way.

ART. 8. The national assembly, after having carried into effect the sixth article, shall suspend its sittings, to resume them after the Peruvian army shall have passed the Desaguadero.

ART. 9. The Bolivian army shall occupy the department of Chuquisaca, Cochabamba, Santa Cruz, and Tarija, as well as that of Potosi, the day after they shall be evacuated by the Peruvian army. The revenues of the latter department, so long as it shall be occupied by the Peruvian army and those of Oreoco and De Paz, while it remains within the Bolivian territory, shall be appropriated to its use, after deducting the charges of collection.

ART. 10. The governments of the two republics shall agree between themselves as to the reclamations that they may reciprocally make, after the Peruvian army shall have passed the Desaguadero.

ART. 11. The two republics shall resume their mutual relations by means of their diplomatic agents, after the Peruvian army shall have evacuated the Bolivian territory.

ART. 12. Neither of the two republics shall contract any relations with the empire of Brazil, until it shall conclude a peace with the Argentine republic.

ART. 13. All persons belonging to either republic who are in the armies of the other, shall be immediately dismissed, it being expressly understood that the Bolivians may remain in their own country, and that the Peruvians may return to theirs, leaving them at full liberty so to do. Colombian soldiers in the two armies are comprized in this article, and neither party shall be at liberty to reclaim deserters.

ART. 14. No Bolivians shall be accountable to the law, nor responsible, directly nor indirectly, for having expressed their opinions under existing circumstances, and those who are in that predicament, shall be treated and regarded according to their talents and services.

ART. 15. The contracting parties shall be responsible for all hostile acts, which may take place in either army, after the ratification of this treaty.

ART. 16. Two officers, who shall be designated by the contracting generals, shall be given as hostages for the fulfilment of this treaty.

ART. 17. This treaty shall be ratified or rejected within twenty-four hours, and in case it shall be disapproved or not ratified, hostilities shall recommence in twelve hours.

Signed in duplicate.

MIGUEL MARIA DE AGUIRRE.
LE GEN. JOSE MIGUEL DE VELASCO.
MIGUEL DEL CARPIO, Sec'y.

JUAN AGUSTINO LIRA.
JUAN BAPTISTA ARQUEDAS.
JOSE MARIA LOPEZ, Sec'y.

No. 49 *Treaty of Amity, Commerce, and Navigation, between His Britannic Majesty and The United Provinces of Rio de la Plata. Signed at Buenos Ayres, February 2, 1825.*

Extensive commercial intercourse having been established for a series of years between the Dominions of His Britannick Majesty, and the Territories of The United Provinces of Rio de la Plata, it seems good for the security as well as encouragement of such commercial intercourse, and for the maintenance of good understanding between His said Britannick Majesty and the said United Provinces, that the relations now subsisting between them should be regularly acknowledged and confirmed by the signature of a Treaty of Amity, Commerce, and Navigation.

For this purpose they have named their respective Plenipotentiaries, that is to say—

His Majesty The King of the United Kingdom of Great Britain and Ireland, Woodbine Parish, Esquire, His said Majesty's Consul-General in the Province of Buenos Ayres and its Dependencies;—and The United Provinces of Rio de la Plata, Senor Don Manuel Jose Garcia, Minister Secretary for the Departments of Government, Finance, and Foreign Affairs, of the National Executive Power of the said Provinces;

Who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon and concluded the following Articles:—

ART. 1. There shall be perpetual amity between the dominions and subjects of His Majesty The King of the United Kingdom of Great Britain and Ireland, and The United Provinces of Rio de la Plata, and their inhabitants.

ART. 2. There shall be, between all the territories of His Britannic Majesty in Europe, and the territories of The United Provinces of Rio de la Plata, a reciprocal freedom of commerce: The inhabitants of the two countries

respectively, shall have liberty freely and securely to come, with their ships and cargoes, to all such places, ports, and rivers, in the territories aforesaid, to which other foreigners are or may be permitted to come, to enter into the same, and to remain and reside in any part of the said territories respectively; also to hire and occupy houses and warehouses for the purposes of their commerce; and, generally, the merchants and traders of each nation, respectively, shall enjoy the most complete protection and security for their commerce; subject always to the laws and statutes of the two countries respectively.

ART. 3. His Majesty The King of the United Kingdom of Great Britain and Ireland engages further, that in all his dominions situated out of Europe, the inhabitants of the United Provinces of Rio de la Plata shall have the like liberty of commerce and navigation stipulated for in the preceding Article, to the full extent in which the same is permitted at present, or shall be permitted hereafter, to any other nation.

ART. 4. No higher or other duties shall be imposed on the importation into the territories of His Britannick Majesty, of any articles of the growth, produce, or manufacture of The United Provinces of Rio de la Plata, and no higher or other duties shall be imposed on the importation into the said United Provinces, of any articles of the growth, produce, or manufacture of His Britannick Majesty's Dominions, than are or shall be payable on the like articles, being the growth, produce, or manufacture of any other foreign country; nor shall any other or higher duties or charges be imposed, in the territories or dominions of either of the Contracting Parties, on the exportation of any articles to the territories or dominions of the other, than such as are or may be payable on the exportation of the like articles to any other foreign country: nor shall any prohibition be imposed upon the exportation or importation of any articles the growth, produce, or manufacture of His Britannick Majesty's dominions, or of the said United Provinces, which shall not equally extend to all other nations.

ART. 5. No higher or other duties or charges on account of tonnage, light, or harbour dues, pilotage, salvage in case of damage or shipwreck, or any other local charges, shall be imposed, in any of the ports of the said United Provinces, on British vessels of the burthen of above 120 tons, than those payable, in the same ports, by vessels of the said United Provinces of the same burthen; nor in the ports of any of His Britannick Majesty's territories, on the vessels of the United Provinces of above 120 tons, than shall be payable, in the same ports on British vessels of the same burthen.

ART. 6. The same duties shall be paid on the importation into the said United Provinces of any article the growth, produce, or manufacture of His Britannick Majesty's dominions, whether such importation shall be in vessels of the said United Provinces, or in British vessels: and the same duties shall be paid on the importation into the dominions of His Britannick Majesty of any article the growth, produce, or manufacture of the said United Provinces, whether such importation shall be in British vessels, or in vessels of the said

United Provinces: The same duties shall be paid, and the same drawbacks and bounties allowed, on the exportation of any articles of the growth, produce, or manufacture of His Britannick Majesty's dominions to the said United Provinces, whether such exportation shall be in vessels of the said United Provinces, or in British vessels; and the same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation of any articles the growth, produce, or manufacture of the said United Provinces to His Britannick Majesty's dominions, whether such exportation shall be in British vessels, or in vessels of the said United Provinces.

ART. 7. In order to avoid any misunderstanding with respect to the regulations which may respectively constitute a British vessel, or a vessel of the said United Provinces, it is hereby agreed, that all vessels built in the dominions of His Britannick Majesty, and owned, navigated, and registered according to the laws of Great Britain, shall be considered as British vessels; and that all vessels built in the territories of the said United Provinces, properly registered, and owned by the citizens thereof, or any of them, and whereof the master and three-fourths of the mariners, at least, are citizens of the said United Provinces, shall be considered as vessels of the said United Provinces.

ART. 8. All merchants, commanders of ships, and others, the subjects of His Britannick Majesty, shall have the same liberty, in all the territories of the said United Provinces, as the natives thereof, to manage their own affairs themselves, or to commit them to the management of whomsoever they please, as broker, factor, agent, or interpreter; nor shall they be obliged to employ any other persons for those purposes, nor to pay them any salary or remuneration, unless they shall chose to employ them, and absolute freedom shall be allowed, in all cases, to the buyer and seller to bargain and fix the price of any goods, wares, or merchandize imported into, or exported from, the said United Provinces, as they shall see good.

ART. 9. In whatever relates to the lading and unlading of ships, the safety of merchandize, goods, and effects, the disposal of property of every sort and denomination, by sale, donation, or exchange, or in any other manner whatsoever, as also the administration of justice, the subjects and citizens of the two Contracting Parties shall enjoy, in their respective dominions, the same privileges, liberties, and rights, as the most favoured nation, and shall not be charged, in any of these respects, with any higher duties or imposts than those which are paid, or may be paid, by the native subjects or citizens of the Power in whose dominions they may be resident. They shall be exempted from all compulsory military service whatsoever, whether by sea or land, and from all forced loans, or military exaction or requisitions; neither shall they be compelled to pay any ordinary taxes, under any pretext whatsoever, greater than those that are paid by native subjects or citizens.

ART. 10. It shall be free for each of the two Contracting Parties to appoint Consuls for the protection of trade, to reside in the dominions and territories of the other party; but before any Consul shall act as such, he shall, in the

usual form, be approved and admitted by the Government to which he is sent; and either of the Contracting Parties may except from the residence of Consuls, such particular places as either of them may judge fit to be so excepted.

ART. 11. For the better security of commerce between the subjects of His Britannick Majesty, and the inhabitants of the United Provinces of Rio de la Plata, it is agreed, that if at any time any interruption of friendly commercial intercourse, or any rupture should unfortunately take place between the two Contracting Parties, the subjects or citizens of either of the two Contracting Parties residing in the dominions of the other, shall have the privilege of remaining and continuing their trade therein, without any manner of interruption, so long as they behave peaceably, and commit no offence against the laws; and their effects and property, whether entrusted to individuals or to the State, shall not be liable to seizure or sequestration, or to any other demands than those which may be made upon the like effects or property, belonging to the native inhabitants of the State in which such subjects or citizens may reside.

ART. 12. The subjects of His Britannic Majesty residing in the United Provinces of Rio de la Plata, shall not be disturbed, persecuted, or annoyed on account of their religion, but they shall have perfect liberty of conscience therein, and to celebrate divine service either within their own private houses, or in their own particular churches or chapels, which they shall be at liberty to build and maintain in convenient places, approved of by the government of the said United Provinces: liberty shall also be granted to bury the subjects of His Britannic Majesty who may die in the territories of the said United Provinces, in their own burial places, which, in the same manner, they may freely establish and maintain. In the like manner, the citizens of the said United Provinces shall enjoy, within all the dominions of His Britannic Majesty, a perfect and unrestrained liberty of conscience and of exercising their religion publicly or privately, within their own dwelling houses, or in the chapels and places of worship appointed for that purpose, agreeably to the system of toleration established in the dominions of His said Majesty.

ART. 13. It shall be free for the subjects of His Britannic Majesty, residing in the United Provinces of Rio de La Plata, to dispose of their property, of every description, by will or testament, as they may judge fit; and, in the event of any British subject dying without such will or testament in the territories of the said United Provinces, the British Consul-General, or, in his absence, his representative, shall have the right to nominate curators to take charge of the property of the deceased, for the benefit of his lawful heirs and creditors, without interference, giving convenient notice thereof to the authorities of the country; and reciprocally.

ART. 14. His Britannic Majesty being extremely desirous of totally abolishing the Slave Trade, the United Provinces of Rio de la Plata engage to co-operate with His Britannic Majesty for the completion of so beneficent a work, and to prohibit all persons inhabiting within the said United Provinces,

or subject to their jurisdiction, in the most effectual manner, and by the most solemn laws, from taking any share in such trade.

ART. 15. The present Treaty shall be ratified, and the ratifications shall be exchanged in London within four months, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed their seals thereunto.

Done at Buenos Ayres, the 2d. day of February, in the year of our Lord 1825.

WOODBINE PARISH. [L. S.]

MANL. J. GARCIA [L. S.]

No. 50. *Treaty of Commerce and Navigation between his Britannic Majesty, and his Majesty the Emperor of Brazil. Rio Janeiro, August 17th, 1827.*

In the name of the Holy and Invisible Trinity.

ART. 1. There shall be peace and friendship for ever, between his majesty the emperor of Brazil, and his majesty the king of the united kingdoms of Great Britain and Ireland, their heirs and successors, their subjects, states and countries, without distinction of person or of place.

ART. 2. His imperial Majesty, and his Britannic majesty, have agreed, that each of the high contracting parties shall have the right of naming, and placing consuls-general, consuls, and vice consuls in all or any of the ports of the other, as may be judged necessary for the commercial interests and advantage of its subjects. The consuls of each class cannot enter upon their functions, unless named by their respective monarchs, with all the requisite formalities, and confirmed by the monarch upon whose territory they are placed. The most perfect equality is to exist between the consuls of each class throughout the territory of each of the high contracting parties. The consuls shall enjoy the privileges attached to their rank, as generally recognised and granted. In all civil and criminal affairs, they are to submit like the rest of their fellow-countrymen, to the laws of the land in which they reside, and to enjoy the entire protection of those laws during their observance of them.

ART. 3. The consuls, and vice-consuls of the two nations shall, each in his respective residence take cognizance and decide upon the differences which may arise between the subjects, the captains, and crews, of the vessels of their respective nations, without the intervention of the authorities of the countries, unless the public tranquillity demand it, or unless the parties themselves carry the affairs before the tribunals of the territory, in which the difference arises. In like manner, they shall have the right of administering the property of the subjects of their own nation, dying intestate, for the benefit of the legitimate heirs of said property, or creditors, conformable to the laws of their respective countries.

ART. 4. The subjects of each of the high contracting parties are to enjoy, throughout the territory of the other, the most perfect liberty of conscience in all matters of religion, conformably to the system of toleration, introduced and followed in each of their respective countries.

ART. 5. The subjects of either sovereign may, at their own pleasure, dispose of their property by sale, exchange, testament, or in any other manner, without let or hinderance. Their houses, goods, and effects, shall be protected and respected, and no authority shall invade them, without the will of their proprietors. They shall be exempted from all service upon land, and upon the sea; from all forced loans, and contributions, for war or for the service of the state; they shall not be required to pay any ordinary tax, under any denomination whatsoever, at a higher rate than that paid by the subjects of the monarch, whose territory they inhabit. They shall not be subjected to any arbitrary domiciliary visits; their books or papers shall not be demanded nor examined under any pretence. It is agreed that domiciliary and other visits, and examinations, shall only take place in the presence of the competent authorities, in cases of high treason, smuggling, and other crimes, provided for by the laws of the respective nations. In general it is expressly stipulated, that the subjects of each party shall enjoy, throughout the territory of the other, as regards their own persons, the same rights, favours and franchises, which are or may afterwards be granted, to the subjects of the most favoured nations.

ART. 6. The constitution of the empire having abolished all separate jurisdictions, it is agreed that the office of judge advocate (*juiz conservador*) of the British nation shall be suppressed, and that in the mean time a sufficient substitute shall be provided, for the protection of the persons and property of the subjects of his Britannic majesty. Hereby it is understood, that the subjects of his Britannic majesty shall enjoy in Brazil, the same rights and advantages enjoyed by Brazilian subjects, in civil and criminal matters; that they cannot be arrested without previous inquest, and the orders of the proper authorities, except in cases where they are taken *in flagrante delictu*, and that their persons are to be free from arrest, in all cases in which the law allows bail.

ART. 7. If, which Heaven avert, any misunderstanding, breach of friendship, or rupture, should take place between the two crowns, such rupture shall not be considered as existing, until after the recall or the departure of the diplomatic agents of the two powers. The subjects of either power remaining within the territory of the other, shall have the right of regulating their affairs, or of carrying on their business with the interior, provided they continue to act peaceably, and do nothing contrary to the laws. Nevertheless, whenever their conduct gives rise to suspicions, they may be obliged to quit the country, every possible facility being afforded them, to retire with their property and effects, and sufficient time being granted them; in no case, however, to exceed six months.

ART. 8. It is also agreed, that neither of the two contracting parties shall knowingly or designedly take or keep in his service, those subjects of the other, who may have deserted from the sea or land service, but shall on proper demand, dismiss all such from his employ. It is moreover declared and agreed, that every favour which can be granted by one of the powers to the other, relative

to deserters from his service, shall be considered as also conceded in the opposite case, as fully as if expressed in the present treaty. It also agreed that in the case of sailors or marines, deserting from ships belonging to subjects of either power, during their sojourn in the ports of the other, the authorities are bound to render all possible assistance, for the arrest of such deserters; in like manner the necessary reclamations shall be made by the consul-general, the consul, or his deputies and representatives; and moreover, no religious or civil corporation shall protect or receive the said deserters.

ART. 9. Salutes in ports, and between flags, shall be made conformably to the usual existing regulations between maritime states.

ART. 10. Liberty of commerce and navigation shall be reciprocally enjoyed, by the respective subjects of the two powers, in ships of both nations, and in all and every port, city, and territory, belonging to the said contracting powers, excepting those to which entrance is expressly forbidden to any foreign nation. It is agreed, that as soon as a port which has been thus interdicted, shall be opened to the commerce of any other nation, it shall be, from that moment, also opened to the subjects of the two high contracting parties. The subjects of the two high contracting parties may enter with their respective ships, into all the ports, harbours, bays and anchorages, of the territories belonging to each of the two parties, unload the whole or a part of their cargoes, and take in or re-export merchandises. They may remain there, rent houses and stores, travel, trade, open shops, transport goods, boats or money, and attend to all their concerns, without being thereby subjected to any surveillance, and transact their business at their pleasure, by means of agents and clerks. Nevertheless, it is agreed that the coasting trade between ports, with articles of consumption, either with the interior, or with other nations, shall be excepted, and that this trade can only be carried on in ships of the country; the subjects of the two powers are, however, permitted to load such ships with their property, merchandise and money, on paying the same duties.

ART. 11. The ships of the subjects of each of the two high contracting powers, shall pay no higher port, tonnage, and the like duties, than those which are or may hereafter be required of the most favoured nations.

ART. 12. In order to prevent all doubts concerning the nation to which a ship may belong, the two parties have agreed to consider as English, those ships which are purchased, registered, and employed in navigation, conformable to the laws of Great Britain. On the other hand, such are to be considered Brazilian, as are built upon the Brazilian territory, belong to Brazilian subjects, and whose captain and three fourths of the crew, are Brazilians. All ships shall likewise be considered as Brazilian, taken from the enemy by ships of his majesty, the emperor of Brazil, or his subjects, furnished with letters of marque, if they have been declared lawful prize by the Brazilian prize court; also those which have been condemned by a competent tribunal, for infraction of the laws prohibiting the slave-trade, and those bought by Brazilian subjects, with crews constituted as above mentioned.

ART. 13. The subjects of each of the two monarchs while on the territory of the other, shall enjoy entire liberty of trading in any way with other nations.

ART. 14. Excepting in this respect, all articles and merchandise of which the crown of Brazil reserves to itself the exclusive monopoly. If, however, the trade of any one of these articles should afterwards become free, the subjects of his Britannic majesty shall be permitted to exercise it, with no greater restrictions than those of his majesty the emperor of Brazil. The duties upon the import and export of these articles, and merchandises, shall in all cases be the same, whether consigned to Brazilian, or to English subjects, or exported by them or belonging entirely to one of them.

ART. 15. In order to determine what is to be viewed as contraband in time of war, it is agreed to include under that head, all arms and munitions of war, by land or sea, such as cannon, guns, mortars, petards, bombs, hand grenades, grape shot, saucissons, gun carriages, musket stocks, bandeliers, powder, matches, saltpetre, balls, pikes, swords, helmets, cuirasses, halberts, lances, spears, horse furniture, holsters, sword belts, and instruments of war in general, as well as ship timbers, tar and pitch, sheet copper, sails, canvass, ropes, and, in general, every thing necessary for fitting out ships of war, except unwrought iron, and pine boards.

ART. 16. Packets shall be established, to facilitate the public service of both courts, and the commercial relations between the subjects of each. They shall be considered as royal ships, whenever they are under the orders of officers of the royal navy. This article shall remain in force until an agreement has been concluded between the powers, for the special arrangement of the packet establishment.

ART. 17. For the more efficacious protection of the commerce and navigation of their respective subjects, the two high contracting parties, agree to receive no pirates within the ports, bays, or anchorages of their respective dominions, and to prosecute with all the rigour of the laws, all persons convicted of piracy, and all persons domiciliated in the territory, convicted of understanding or participation with them. All ships and cargoes belonging to the subjects of either of the contracting parties, taken or robbed by pirates, in the neighbourhood of one of the ports of the other, shall be returned to their proprietors, or to those whom they may appoint, as soon as the identity of the property can be established. This restitution shall take place, even when the article claimed has been sold; only, however, in those cases in which the buyer knew, or ought to have known, that said article had been acquired by piracy.

ART. 18. If any ship of war or commerce, belonging to either of the contracting states, should be wrecked in the ports or on the coasts of the other, the authorities and persons employed by the custom-house of the place, are to render all possible assistance, to save the persons and property of the shipwrecked; to see that the articles saved or their value be secured, so that

if the ship wrecked be a ship of war, they may be restored to their respective governments, and if a merchant ship, to their proprietor, or to those whom he may empower, as soon as they are claimed, and the expenses of salvage and storage have been paid. Articles saved from shipwreck, shall be subject to no duty, unless carried for consumption into the country.

ART. 19. Every species of merchandise, and articles of every kind, which are the natural produce or manufacture of the territories of his Britannic majesty, either in Europe or in his colonies, may be introduced into all or each of the ports of Brazil, after having once paid a duty, not exceeding fifteen per cent in specie, or its equivalent, as fixed by the tariff, published in all the ports of the kingdom, in which custom-houses exist.

It is also agreed, that when tariffs are in future made, the market price shall be taken each time as the basis, and the consul of his Britannic majesty, shall have leave to make a representation, whenever any one of the articles shall be valued too highly upon the existing tariff, so that this circumstance may be taken into consideration as soon as possible, and without causing any delay in the shipping of said article.

It has been likewise agreed, that whenever English articles introduced into the Brazilian custom-houses, shall not possess the value assigned them in the tariff, and they are intended for internal consumption, the importer shall add a declaration of their value, after which their transportation shall not be delayed. In all cases, however, in which the persons employed by the custom-house, in fixing the duties, shall judge that the articles are rated beneath their value, it shall be in their power to sequester the article thus valued, to pay the importer ten per cent. over and above said valuation, within fifteen days from the time of their sequestration, returning the duties already paid; in all which the usages of the English custom-houses shall be followed.

ART. 20. His majesty the emperor of Brazil, engages not to admit into any part of his dominions, any article coming from abroad, produced or manufactured in said country, under duties less than those fixed in the preceding article, unless the same diminution takes place in English articles, produced or manufactured in England, excepting only, all articles produced or manufactured in Portugal, imported thence directly to Brazil, in ships of one or the other nation. His Britannic majesty has consented to this exception, in favour of Portugal, on account of the part he has himself taken in the negotiation which has been so happily terminated by the treaty of reconciliation and independence of the 29th of August, 1825, and also on account of the friendly relations, which his Britannic majesty so ardently desires to maintain between Brazil and Portugal.

ART. 21. All articles of merchandise, the products of the industry and manufactures of Brazil, and imported directly for consumption into the territories and possessions of his Britannic majesty, in Europe, and in his American, Asiatic, and African colonies, open to foreign commerce, shall be subject

to no higher duties, than those paid upon the same articles, imported in the same manner, from any other foreign country.

ART. 22. As certain articles of Brazilian produce, when imported for consumption into the United Kingdoms pay heavier duties than are imposed upon similar products of the English colonies, his Britannic majesty agrees that such articles may be restored within his dominions until re-exported, under the necessary regulations, without paying any duties of consumption; and they shall not be subject to higher storage or re-exportation duties, than those imposed, or which may hereafter be imposed, upon similar products of the British colonies, when thus stored or re-exported.

In like manner, the products of the English colonies, which are similar to those of Brazil, can only be admitted for re-exportation into the Brazilian port under the same favourable conditions to which similar articles are subjected in the English custom-house.

ART. 23. Every species of article and merchandise, imported from the English territories into a port of his imperial majesty, must be accompanied by certificates of its origin, signed by competent custom-house officers of the port of embarkation; which shall be numbered in order and attached to the declaration by the seal of the English custom-house; the correctness of the declaration shall be confirmed by oath in presence of the Brazilian consul, and the affidavit presented to the custom-house in the place of importation. The origin of the articles imported into Brazil from British possessions where there is no custom-house, shall be proved with the same formalities used in similar importations into Great Britain.

ART. 24. His Britannic Majesty engages, in his own name and in that of his successors, to allow the subjects of his imperial majesty to trade with his own ports, at home and in Asia, upon the footing of the most favoured nations.

ART. 25. In all cases in which bounty or drawback is allowed upon articles exported from a port, belonging to either of the two powers, such bounty or drawback shall be the same under all circumstances, whether the re-exportation take place on Brazilian or on English ships.

ART. 26. His imperial majesty engages, in his own name, and in that of his successors, not to permit any restriction upon the commerce of his Britannic majesty, within his states, or injury to them from the effect of any exclusive monopoly for buying or selling, or by privileges granted to any commercial company. The subjects of his Britannic majesty, on the contrary, shall have full and entire liberty of buying and selling to whom and in what manner they please, without being obliged to give the preference to any such company, or to any individual enjoying such exclusive privileges. On his own part, his Britannic majesty engages to preserve faithfully and reciprocally, the same principle with regard to the subjects of his imperial majesty. Those articles of Brazilian produce, which the crown has reserved to itself the exclusive right of buying and selling, are not comprehended under this provision whilst such reservation remains in force.

ART. 27. His imperial majesty has resolved to grant to the subjects of his Britannic majesty the same privilege of credit (assignation) at the custom-houses, enjoyed by those of his Brazilian majesty. On the other hand, it is agreed and stipulated, that the Brazilian traders shall enjoy in the British custom-houses, the same favour, as long as the laws allow it to British subjects themselves.

ART. 28. The high contracting parties have agreed that the stipulations contained in the present treaty, shall remain in vigour for fifteen years, from the date of the ratification of the present, and after that until one of the two parties shall announce its revocation to the other, in which case the present treaty shall cease, upon the second year after such annunciation.

ART. 29. The present treaty shall be ratified by the high contracting parties, and the ratifications shall be exchanged, within the space of four months, or less, if possible.

In testimony whereof, we, the undersigned, plenipotentiaries of his majesty the emperor Brazil, and of his Britannic majesty, in virtue of our plenary powers, have signed the present treaty, and affixed to it our seals and arms.

Done at Rio Janeiro, on the 17th of the month of August, in the year of grace eighteen hundred and twenty-seven.

Signed

[L. S.] THE MARQUIS DE QUELUZ. [L. S.] THE MARQUIS DE MACEYO.
[L. S.] THE VIC'OT DE S. LEOPOLDO. [L. S.] ROBERT GORDON.

No. 51. *Treaty between Brazil and the Hanse Towns.*

In the Name of the Most Holy and Invisible Trinity.

The Senate of the Free and Hanseatic city of Lubeck, the Senate of the Free and Hanseatic city of Bremen, and the Senate of the Free and Hanseatic city of Hamburgh, on one part, each of them separately, and his Majesty the Emperor of Brazil on the other part, desirous of consolidating the relations of commerce and navigation between their respective states, have named to conclude a convention founded on the principles of a fair reciprocity, their Plenipotentiaries, namely--

The Senate of the Free and Hanseatic city of Lubeck, the Senate of the Free and Hanseatic city of Bremen, and the Senate of the Free and Hanseatic city of Hamburgh, John Charles Frederick Gildemeister, esq. Doctor of Laws, member of the Senate of Bremen, at present their Envoy Extraordinary to His Majesty the Emperor of Brazil, and Charles Sieveking, esq. Doctor of Laws, Member and Syndic of the Senate of Hamburgh, at present their Envoy Extraordinary to his said Majesty; and his Majesty the Emperor of Brazil, his Excellency the marquis de Queluz, Councillor of State, Senator of the Empire, &c. who, after having reciprocally communicated their full powers, found in good and due form, have agreed on the following articles:

ART. 1. All ports and anchorages in the respective countries, open to the vessels of any other nation, shall be in like manner open to the Brazilian and Hanseatic vessels respectively.

ART. 2. All vessels bearing the flag of one of the republics of Lubeck, Bremen, and Hamburg, belonging exclusively to a citizen or citizens of one of them, and of which the captain shall in like manner be a citizen of one of those republics, shall be held and considered for all the objects of this convention, as a vessel belonging to Lubeck, Bremen, or Hamburg. A perfect reciprocity shall be observed in respect to Brazilian ships. Passports regularly executed, shall establish between the high contracting parties the proofs of the nationality of the Brazilian and Hanseatic vessels.

ART. 3. Lubeck, Bremen, and Hamburg vessels which shall enter the Brazilian ports or depart therefrom, and Brazilian vessels which shall enter the ports of the said republics, or depart therefrom, shall not be subject to duties levied on vessels (besides the duties payable on their cargoes) under the head of port-charges, anchorage, light-houses, tonnage, visiting, pilotage, or any other denomination whatever, other or more considerable than those which are actually or may hereafter be imposed on national vessels.

ART. 4. The high contracting parties mutually engage not to establish any prohibitions of import or export which shall attach to the importations or exportations of either country, not affecting those articles of the same description of other countries. The contracting parties engage not to burthen them with any duties or any other charges whatever, which shall not at the same time be extended to all the importations or exportations of the same sort, without any distinction of country.

ART. 5. All merchandise which can be imported into the states of the high contracting parties respectively in national vessels, or which can in like manner be exported therefrom, may also be imported or exported in the vessels of the other contracting party.

The coasting trade from port to port, employed for transporting indigenous or foreign products already admitted for consumption, being nevertheless excepted from this general principle, and reserved for the regulations of each country, it is agreed by both parties, that the citizens and subjects of the high contracting parties shall enjoy in this respect the privilege of using the coasting vessels for the conveyance of their merchandise, subject only to the same duties which are now levied, or which may hereafter be levied, on the subjects of the most favoured nation.

ART. 6. Any merchandise whatever, without distinction as to origin, exported from the Brazilian ports the ports, of Lubeck, Bremen, and Hamburg, or from these last-mentioned ports to Brazil, in Brazilian vessels belonging to a nation favoured in the Hanseatic ports in their direct commerce, and any merchandise imported from any country whatever into the Hanseatic ports by Brazilian vessels, or exported to any country whatever from the Hanseatic ports by Brazilian vessels, shall not, in the above-mentioned ports, pay the export and import duties, and any other duties, except according to the rates granted to direct commerce of the most favoured nation.

On the other part, any merchandise whatever, without distinction as to origin, exported from the ports of Lubeck, Bremen, or Hamburgh, to Brazil or from Brazil to these ports, in Hanseatic vessels or in vessels belonging to any nation favoured in the Brazilian ports in their direct commerce, shall not pay in Brazil the import or export duties, or any duties whatever, but such as are fixed by a rate to the direct and national commerce of the most favoured nation; a rate which by other treaties has been temporarily fixed at fifteen per cent. instead of twenty-four for all merchandise introduced for consumption.

The Hanseatic cities not having placed any restriction on the indirect commerce of Brazil, and the Brazilian government not being in all respects able, in the present state of their commercial relations, to grant to the indirect commerce the same latitude and perfect reciprocity, it is agreed that the said indirect commerce shall for the present be restricted, and shall only take place with respect to the nations whose direct commerce is or shall be favoured in the Brazilian ports by particular treaties.

All merchandise exported in Hanseatic vessels from the ports of the said nations favoured in Brazil, shall pay the same duties of import and export, or any other duties which are paid by the Hanseatic cities in their direct commerce; these merchandises remaining nevertheless liable to the other formalities required when they are imported into the Brazilian ports by nations favoured in their direct commerce.

All bounties, drawbacks, or other such advantages granted in one of the countries on importation or exportation, in the vessels of any foreign nation whatever, shall in like manner be granted when the importation or exportation shall be performed by the vessels of the other country.

In the direct navigation between the Brazils and the Hanseatic cities, the manifests witnessed by the Consuls, Brazilian or Hanseatic respectively, or if there should not be any consuls by the local authorities, shall be sufficient to admit the respective importations or exportations to the advantages stipulated in this article.

ART. 7. The indigenous articles referred to in the preceding article shall experience in the respective Custom-houses, as far as regards their valuation, all the advantages and facilities which are or shall be conceded to the most favoured nation. It is understood that in cases where they shall not have a fixed value in the Brazilian tariff, the entry at the custom-house shall be made on a declaration of their value signed by the party who shall have imported them; but in the event of the officers of the customs charged with the collection of the duties suspecting the valuation to be faulty, they shall be at liberty to take the goods thus valued on paying ten per cent. above the said valuation and this within the period of fifteen days from the first day of the detention, and on repaying the duties received thereon.

ART. 8. The commerce and navigation between Brazil and the Hanseatic ports shall enjoy in each country, without waiting for any additional convention, all the privileges and advantages which are or may be granted to any of

the most favoured nations, provided always they fulfil the conditions of reciprocity. It is understood that the privileges which have been, or which may be, granted to the Portuguese nation, shall not be construed into a precedent, nor shall the effects of the present convention extend to Portugal, unless there should be particular treaties for that purpose.

ART. 9. The consuls of the respective governments shall be treated, as well in respect to their persons as to the exercise of their functions, on the same footing as those of the most favoured nations. They shall especially enjoy the right of making representations, as well general as particular, upon the valuations made by the customs, which shall be taken into consideration with as little delay as possible, without detaining the consignments.

ART. 10. Should either of the contracting parties be engaged in war, whilst the other is neuter, it is agreed, that whatever the belligerent party may have stipulated with other powers to the advantage of the neutral flag, shall still be in force between Brazil and the Hanseatic towns. In order to prevent all mistakes relating to what is considered contraband of war, it is agreed (without however departing from the general principle above detailed) to restrict this definition to the following articles:—Cannons, mortars, guns, pi-tois, grenades, fusees, gun-carriages, belts, powder, saltpetre, helmets, balls, pikes, swords, halberds, saddles, harness, and all other instruments whatever manufactured for the uses of war.

ART. 11. The citizens and subjects of the respective countries shall enjoy in the other country, in respect to their persons, their property, the exercise of their religion, and the employment of their industry, all the rights and privileges which are or shall be hereafter granted to the most favoured nations.

Some foreigners enjoying in Brazil the privilege of having accounts open at the custom-houses for payment of duties, on the same condition and sureties as the Brazilian subjects, this favour shall extend equally to the Hanseatic residents.

ART. 12. The high contracting parties reserve to themselves the right of entering into any additional stipulations, which the reciprocal interest of trade may require, and any articles which may be hereafter agreed on shall be considered as making a part of the present convention.

ART. 13. Although the present convention be considered as common to the three free Hanseatic cities of Lubeck, Bremen, and Hamburg, it is agreed, nevertheless, that a league of reciprocal responsibility does not exist between their sovereign governments, and that the stipulations of the present convention shall remain in full force with regard to the rest of these republics, notwithstanding a termination on the part of one or more of them.

ART. 14. The present convention shall be ratified, and the ratifications shall be exchanged in London within the space of four months, or sooner if possible.

It shall be in full force during ten years, dating from the day of the exchange of the ratifications; and beyond that term, until the senates of the

Hanseatic cities, whether separately or collectively, or his majesty the Emperor of the Brazils, shall have announced the intention of terminating such convention, as likewise during the negotiation for a renewal or modification of it.

In witness whereof, the undersigned, plenipotentiaries of the Senates of the Hanseatic republics of Lubeck, Bremen, and Hamburgh, and of his majesty the emperor of Brazil, in virtue of their respective full powers, have affixed the seal of their arms.

Done at Rio de Janeiro, this 17th day of November, in the year of our Lord 1827.

[L. S.] GILDEMEISTER.
[L. S.] C. SIEVEKING.

[L. S.] Marques de QUELUZ.
[L. S.] Conde de LAGES

No. 52. *Preliminary Treaty of Peace between the Republics of the United Provinces of the river Plate and the Emperor of Brazil.*

In the name of the most holy and undivided Trinity.

The government of the republic of the United Provinces of the river Plate, and his majesty the Emperor of Brazil, desiring to put an end to the war, and establish upon solid and durable principles the good understanding, harmony, and friendship, which should exist between the neighbouring nations, called by their interests to live united by the ties of perpetual alliance, have agreed, through the mediation of his Britannic majesty, to adjust between themselves, a preliminary treaty of peace, which shall serve as a basis to the definitive treaty of the same, which is to be concluded between the high contracting parties. And for this purpose they have appointed their plenipotentiaries, to wit:

The government of the Republic of the United Provinces, Generals Don Juan Ramon Balcarce, and Don Thomas Guido:

His majesty the Emperor, the most illustrious and most excellent Marquis of Aracaty, Member of his Majesty's Council, &c. &c.

Who, having exchanged their respective full powers, which were found to be in good and due form, agreed upon the following articles:—

ART. 1. His Majesty the Emperor of Brazil declares the Province of Monte Video, at present called the Cisplatine, separated from the territory of Brazil, in order that it may constitute itself into a state free and independent of any nation whatever, under the form of government which it may deem most suitable to its interests, wants, and resources.

ART. 2. The government of the Republic of the United Provinces concurs in declaring, on its part, the independence of the provinces of Monte Video, at present called the Cisplatine; and its being constituted into a free and independent state, in the form declared in the foregoing article.

ART. 3. Both high contracting parties oblige themselves to defend the independence and integrity of the province of Monte Video, for the time and in the manner that may be agreed upon in the definitive treaty of peace.

ART. 4. The existing government of the Banda Oriental, immediately upon the ratification of the present convention, shall convoke the representa-

tives of that part of the said province which is at present subject to it; and the existing government of Monte Video shall make simultaneously a like convocation of the citizens residing within the city, regulating the number of deputies by that of the inhabitants of the province, and using the form adopted in the election of representatives in the last legislature.

ART. 5. The election of deputies for the city of Monte Video shall take place indispensably *extramuros* without the reach of the artillery of the city, and in absence of armed force.

ART. 6. The representatives of the province being assembled at a distance of at least ten leagues from the city of Monte Video, and any place occupied by troops. shall establish a provisional government, which shall rule the whole province until the installation of the permanent government, to be created as the constitution shall direct. The existing governments of Monte Video and the Banda Oriental shall cease immediately after the installation of the provisional one.

ART. 7. The same representatives shall betake themselves afterwards to the formation of the political constitution of the province of Monte Video; and the constitution, previously to being sworn to, shall be examined by commissioners from the two contracting governments, for the sole object of seeing that it does not contain any article or articles opposed to the security of their respective states. Should this be the case, it shall be publicly and categorically set forth by the said commissioners; but should there be a want of common accord in these it shall be decided by the two contracting governments.

ART. 8. Any inhabitant of the province of Monte Video shall be at liberty to leave the territory thereof, taking with him his chattels, without prejudice to a third person, until the constitution be sworn to, if he do not wish to adhere to it, or if it so suit him.

ART. 9. There shall be perpetual and absolute oblivion of all political acts and opinions whatever done or professed previously to the ratification of the present convention, by the inhabitants of the province of Monte Video, and of the territory of the Emperor of Brazil which has been occupied by the troops of the republic of the United Provinces.

ART. 10. It being a duty of the two contracting governments to assist and protect the province of Monte Video, until it be completely constituted, and said governments agree that, if previously to the constitution being sworn to, and during five years afterwards, its tranquility and security should be disturbed by civil war, they shall lend the necessary aid to maintain and support the lawful government. After the expiration of the above term, all protection which is by this article promised to the lawful government of the province of Monte Video shall cease: and the said province shall be considered in a state of perfect and absolute independence.

ART. 11. Both the high contracting parties declare most explicitly and categorically, that whatever may happen to be the use of the protection which in

conformity to the foregoing article, is promised to the province of Monte Video, it shall in all cases be limited to the restoration of order, and shall cease immediately that the object is attained.

ART. 12. The troops of the province of Monte Video and those of the Republic of the United Provinces, shall evacuate the Brazilian territory in the precise term of two months from the date of the exchange of the ratifications of the present convention, the latter passing to the left bank of the river Plate or the Uruguay, with the exception of a force of 1500 men, or more, which the government of the aforesaid republic, if it deem fit, may maintain in any part of the territory of the province of Monte Video, until the troops of his majesty the Emperor of Brazil completely evacuate the city of Monte Video.

ART. 13. The troops of his majesty the Emperor of Brazil shall evacuate the territory of the province of Monte Video, including La Colonia del Sacramento, in the precise term of two months from the date of the exchange of the ratifications of the present convention, and retire to the frontiers of the empire, or embark, with the exception of a force of 1500 men, which his said majesty may maintain within the city of Monte Video, until the installation of the provincial government of the province, under the express obligation of withdrawing this force, in the precise term of four months, first following the installation of said provisional government, at the latest, delivery, in the act of evacuation, the said city of Monte Video, in *statu quo ante bellum*, to commissioners competently authorized *ad hoc* by the lawful government of the province.

ART. 14. It is understood that neither of the troops of the republic of the United Provinces nor those of his majesty the Emperor of Brazil, which in conformity to the two foregoing articles, are to remain temporarily in the province of Monte Video, must in any wise interfere in the political affairs, government, institutions, &c. of the said province. They shall be considered as merely passive and on observation, kept to protect and guaranty public and individual liberties and property; and they cannot operate actively unless the lawful government of the province require their assistance.

ART. 15. As soon as the exchange of the ratifications of the present convention takes place, there shall be an entire cessation of hostilities by sea and by land. The blockade shall be raised in the term of forty-eight hours, on the part of the imperial squadron; hostilities by land shall cease immediately after this convention and its ratifications are notified to the armies, and by sea, in two days to cape St. Mary, in eight to St. Catherine's, in fifteen to cape Frio, in twenty-two to Pernambuco, in forty to the Line, in sixty to the coast of Africa, and in eighty to the seas of Europe. All prizes made subsequently shall not be considered *bona fide* captures, and indemnification will be reciprocally made for them.

ART. 16. All prisoners taken by either party during the war, by sea or by land, shall be set at liberty, as soon as the present convention is ratified and the ratifications exchanged; but those who have not secured the payment of the debts contracted by them, cannot leave the country in which they are.

ART. 17. After the exchange of the ratifications, both high contracting parties shall proceed to appoint their respective plenipotentiaries for the purpose of adjusting and concluding the definitive treaty of peace which is to be concluded between the republic of the United Provinces and the Empire of Brazil.

ART. 18. If, contrary to expectation, the high contracting parties should not come to an adjustment in the said definitive treaty of peace, though questions that may arise in which they may not agree, notwithstanding the mediation of his Britannic majesty, the republic and the empire cannot renew hostilities, before the expiration of five years stipulated in the tenth article; nor even after this time can hostilities take place, without notification being reciprocally given, with the knowledge of the mediating power, six months previously.

ART. 19. The exchange of the ratifications of the present convention shall be effected in the city of Monte Video, in the term of sixty days from the date hereof, or sooner if possible.

In testimony whereof, we, the undersigned plenipotentiaries of the government of the United Provinces, and his majesty the Emperor of Brazil, in virtue of our full powers, sign the present convention with our hand, and seal it with the seal of our arms. Done in the city of Rio Janeiro, on the 28th day of the month of August, in the year of the birth of our Lord Jesus Christ, 1828.

[L. S.] JUAN RAMON BALCARCE.
[L. S.] THOMAS GUIDO.
[L. S.] MARQUEZ DE ARACATY.

[L. S.] JOSE CLEMENTE PEREIRA.
[L. S.] JOAQUIN D'OLIVERA ALVAREZ.

ADDITIONAL ARTICLE.

Both the high contracting parties oblige themselves to employ all means in their power in order that the navigation of the river Plate, and of all others that empty into it, may be kept free for the use of the subjects of both nations, for the space of fifteen years, in the form that may be agreed upon in the definitive treaty of peace.

The present article shall have the same force and vigour as if it had been inserted for word in the preliminary convention of this date.

Done in the city of Rio Janeiro, &c. &c.

ABSTRACT

OF

JUDICIAL DECISIONS,

ON POINTS CONNECTED WITH OUR

FOREIGN RELATIONS.

REFERENCES

TO THE

PRINCIPAL CASES DECIDED IN THE COURTS OF THE UNITED STATES, AND
IN SOME OF THE STATE TRIBUNALS,

IN

REGARD TO POINTS OR PRINCIPLES

CONNECTED WITH OUR

Foreign Relations.

1. After the treaty of peace of 1783. no proceeding could be maintained in Pennsylvania, upon an attainder for treason, in adhering to the King of Great Britain, during the war.—*Respublica v. Gordon*, 1 Dallas, 233.—*Supreme Court of Pennsylvania*, 1788. Treaty with Great Britain. Attainder.
2. The law of Nations forms a part of the municipal law of Pennsylvania, and violations of that law may be prosecuted by indictment, and punished by fine and imprisonment.—*Respublica v. De Longchamps*, 1 Dallas, 114. *Court of Oyer and Terminer, Philadelphia*, 1784. Foreign minister.
3. A Foreigner, committing an act in violation of the law of Nations in regard to the person of a secretary of legation of the nation to which such foreigner belongs, cannot be delivered up, by the Executive of the State, to the minister of that nation; although cases may occur, where, *pro bono publico*, and to prevent atrocious offenders evading punishment, they may be delivered up to the justice of the country to which they belong, or where the offences were committed;—nor can such offender against the law of nations be imprisoned until his Government shall declare that the reparation is satisfactory.—*id* 116. id.
4. The municipal laws of a country can not change the law of nations, so as to bind the subjects of another nation.—*Miller v. Ship Resolution*, 2 Dallas, 4 —*Federal Court of Appeals*, 1781. id.
5. America was bound, as an ally of France, by the capitulation between Great Britain and France, for the surrender of *Dominica*.—*id* 15. Treaty with France.
6. The ordinance of Congress founded on the Russian armed neutrality, declaring that free ships should make free goods, included British property.—*id*. 18. 36. Armed neutrality.

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- Consuls. 7. In criminal prosecutions against Consuls, the Circuit Court of the United States has concurrent original jurisdiction with the Supreme Court, and the District Court.—*The United States v Ravara*, 2 Dallas, 298.—*Circuit Court U. S. Pennsylvania District*. 1793.
- Courts.
- Consuls. 8. Consuls are officers known to the law of nations, and are entrusted with high powers; but not with the power of authenticating the laws of foreign nations. There appears no reason for assigning to their certificate respecting a foreign law, any higher or different degree of credit than would be assigned to their certificates of any other fact.—*Church v. Hubbard*, 2, Cranch, 237.—*Sup. Court U. S.*, 1804.
- Foreign law.
- Foreign laws. 9. Foreign laws must be proved like other facts. They must be verified by oath, or by some other, such high authority that the law respects not less than the oath of an individual—*id.* 187. and *Talbot v. Seeman*—1, Cranch, 38, 1801, *Sup. Court U. S.*
- id. 10. A certificate of the proceedings of a court, under the seal of a person who states himself to be the secretary of foreign affairs in Portugal, is not evidence.—*id.* 187. 239.
- id. 11. If the decrees of the Portuguese colonies are transmitted to the seat of government and registered in the Department of State, a certificate of that fact under the great seal (of Portugal) with a copy of the decree, authenticated in the same manner, would be sufficient *prima facie* evidence of the verity of what was so certified.—*id.* 238, 239.
- Courts. 12. No foreign power can, of right, institute or erect any court of judicature of any kind within the jurisdiction of the United States, but such only as may be warranted by, and be in pursuance of treaties. The admiralty jurisdiction which had been exercised in the United States by the consuls of France, not being so warranted, were not of right.—*Glass v. The Sloop Betsey*, 3 Dallas, 16.—*Supreme Court of the United States*. 1794
- Admiralty.
- Consuls.
- Courts. 13. The District Courts of the United States possess all the powers of Courts of Admiralty, whether considered as instance or as prize courts.—*id.* 16.
- Admiralty.
- Treaty with France. 14. By the 9th art. of the consular convention with France, an exhibition of the register vessel, or ship's roll, was necessary to authorize the District Judge to issue his warrant to arrest a deserter from a French vessel.—*The U. S. v. Judge Lawrence*, 3 Dallas 42.—*Sup. Court U. S.* 1795.
- Treaty with Great Britain. 15. The rights of British creditors, whose debts had been sequestered, but not confiscated during the war, revived at

the peace, both by the law of nations and the treaty.—*The State of Georgia v. Brailsford*—3 Dallas, 4, 5. *Supreme Court U. S.* 1794. *Ware v. Hylton*—3 Dallas, 199 to 235.—*Sup. Court U. S.* 1796. Confiscation.

16. Under the 19th art. of the French treaty, the privateers of France had a right to repair in our ports—and restitution was denied of a British ship captured and brought into the United States, by a French privateer which had been repaired in a port of the United States.—*Moodie v The ship Phoebe Ann.*—3 Dallas, 319. *Sup. Court U. S.* 1796. Treaty with France
Prize.

17. A Foreign Consul, who draws bills of exchange on account of his government is not personally liable —*Jones v. Le Tombe*, 3 Dallas, 384.—*Sup. Court, U. S.* 1795. Consul.

18. The right and mode of Expatriation discussed.—*Talbot v. Janson*—3 Dallas, 133 to 169.—*Sup. Court, U. S.* 1795. Expatriation.

19. A final condemnation in an inferior court of Admiralty, where a right of appeal exists and has been claimed, is not a *definitive* condemnation within the meaning of the 4th art. of the convention with France of the 30th of Sept. 1800.—*The U. S. v. The schooner Peggy*—1, *Cranch* 103, *Supreme Court, U. S.* 1801. Treaty with France.

20. The Court is as much bound as the Executive to take notice of a treaty, and will reverse the original decree of condemnation, (although it was correct when made) and decree restitution of the property, under the treaty made since the condemnation —*ib.* 103. Treaty.

21. Salvage allowed to a ship of war of the United States for the recapture of a *Hamburgh* vessel out of the hands of the *French* (*France and Hamburgh being neutral to each other*), on the ground that she was in danger of condemnation under the *French arrête* of 18th January, 1798.—*Talbot v. Seeman*—1, *Cranch* 1.—*Sup. Court U. S.* 1801. Prize.
Salvage.

22. Marine ordinances of foreign countries, promulgated by the Executive, by order of the Legislature of the United States, may be read in the courts of the United States without further authentication or proof.—*id.* 38. Foreign laws.

23. France and the United States were in a state of partial war in the year 1799.—*id.* 31. France.

24. An American citizen residing in a foreign country, may acquire the commercial privileges attached to his domicile; and, by making himself the subject of a foreign power, he places himself out of the protection of the United States, while within the territory of the sovereign to whom he has sworn allegiance.—*Murray v. The Charming Betsey*. 2, *Cranch*, 64. *Sup. Court U. S.* 1804. Prize.
Domici

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- Expatriation.** 25. *Quere*. Whether a citizen of the United States can divest himself absolutely of that character, otherwise than in such manner as may be prescribed by law? And, whether by becoming a subject of a foreign power, he is rescued from punishment for a crime against the United States, and is disabled to hold lands?—*id. ib. and McIlvaine v. Coxe's lessee*—2, *Cranch*, 280. *Sup. Court U. S.* 1804.
- Aliens.**
- Treaty with Great Britain.** 26. The treaty of peace with Great Britain prevents the operation of the act of limitations of Virginia, upon British debts contracted before the treaty.—*Hopkirk v. Bell*—3, *Cranch*, 454, *Sup. Court U. S.*, 1806.
- id. Aliens.** 27. *Quere*, Whether a British subject, born in England, in the year 1750, and who always resided in England, could, in the year 1786, take and hold lands in Virginia, by descent or devise?—*Lombert's lessee v. Paine*—3, *Cranch*, 97, *Supreme Court U. S.* 1805.
- Foreign laws.** 28. An executor cannot maintain a suit in the District of Columbia, upon letters testamentary, granted in a foreign country.—*Dixon v. Ramsay*—3, *Cranch*, 319, *Sup. Court, U. S.* 1806.
- Prize.** 29. A foreign sentence of condemnation as *good prize*, is not conclusive evidence that the legal title to the property was not in the subject of a neutral nation.—*Maley v. Shattuck*—3, *Cranch*, 458, *Sup. Court, U. S.*, 1806
- Lex loci.** 30. All the rights to a testator's personal property, are to be regulated by the laws of the country where he lived; but suits for those rights must be governed by the laws of that country in which the tribunal is placed.—*Dixon v. Ramsay*—3, *Cranch*, 458, *Sup. Court, U. S.* 1806.
- Law of nations.** 31. If a foreign court cannot, consistently with the law of nations, exercise the jurisdiction which it has assumed, its sentence is to disregarded; but of their own jurisdiction, so far as it depends upon *municipal laws*, the courts of every country are the exclusive judges. Every sentence of condemnation by a competent court, having jurisdiction over the subject matter of its judgment, is conclusive, as to the title to the thing claimed under it. *Rose v. Himely*—4, *Cranch*, 241, *Sup. Court, U. S.* 1808. *Hudson v. Guestier*—4, *Cranch*, 294 *Sup. Court, U. S.* 1808.
- Courts.**
- Courts.** 32. It is for *Governments* to decide whether they will consider a revolted colony as an independent nation; and until such decision shall be made, or the parent state shall relinquish her claim, courts of justice must consider the ancient state of things as remaining unaltered, and the sovereign power
- Colonies.**

of the parent state over that colony as still subsisting.—*Gelston v. Hoyt*—3, *Wheaton*. 324, 1816. *Rose v. Himely*—4, *Cranch*, 272. *Sup. Court U. S.* 1808.

The following public documents, respecting the revolt of *St. Domingo*, were noticed by the Court:

Notification by Mr *Pichon*, the French *chargé d'affaires* to the American Government, published in March, 1802, interdicting all manner of intercourse with ports of *St. Domingo*, in possession of the revolted negroes.

The order of the commander-in-chief of the French republic in *St. Domingo*.

The French *arrêtes* of 22d June, 1802, 2d Oct. 1802.

The decree of *General Ferrand*, of 1st March, 1804—*Rose v. Himely*—4, *Cranch*. 273, 274, 275, *Sup. Court U. S.* 1808.

Treaty of alliance between the French Republic and Spain—19th August, 1796.—4, *Cranch*, 259.

33. An American vessel seized by a French privateer within the territorial jurisdiction of the government of *St. Domingo*, for breach of the French municipal law, prohibiting intercourse with certain ports in that island, and carried by the captors directly to a Spanish port in the island of *Cuba*, was, while lying there, lawfully condemned by a French tribunal sitting at *Guadaloupe*.—*Hudson v. Guestier*—4, *Cranch*, 293, *Sup. Court U. S.* 1808.

34. The possession of the sovereign of the captors, gives jurisdiction to his courts.

The possession of the captors, in a neutral port, is the possession of their sovereign.

If the possession be lost by re-capture, escape, or voluntary discharge, the courts of the captor lose the jurisdiction which they had acquired by the seizure.

The trial of a municipal seizure must be regulated exclusively by municipal law.

No foreign court can question the correctness of what is done, unless the court passing the sentence lose its jurisdiction by some circumstance which the law of nations can notice.—*Hudson v. Guestier*—4, *Cranch*, 293, *Sup. Court U. S.* 1808.

35. The sentence of a foreign court of admiralty, condemning a vessel for breach of blockade, is conclusive evidence of that fact in an action on the policy of insurance.—*Croulson v. Leonard*—4, *Cranch*, 433, *Sup. Court U. S.* 1808.

36. A person born in the colony of *New Jersey* before the year 1773, and residing there till 1777, when he joined the

New states.

St. Domingo.

Prize.

Courts.

id.

Prize. Courts.

Treaty with Great Britain.

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- British army, and ever afterwards adhered to the British, claiming to be a British subject, and demanding and receiving compensation, from that Government for his loyalty and his sufferings as a refugee, did not, by the treaty of peace, become an alien to the state of New Jersey, but had a right to take lands, by descent, in that State.--*McIlwaine v. Coxe's lessee*—4, *Cranch*, 208, *Sup. Court U. S.* 1808.
- Aliens. 37. A person born in England before the year 1775, and who always resided there, and never was in the United States, is an alien, and could not, in the year 1793, take lands in Maryland by descent from a citizen of the United States.--*Nawson's lessee v. Godfrey*—4, *Cranch*, 321, *Sup. Court U. S.* 1808.
- id.
- Treaty with Great Britain. 38. Persisting in an intention to enter a blockaded port, after warning, is not attempting to enter it, within the meaning of the 18th art. of the British treaty of 1794.--*Fitzsimmons v. The Newport Insurance Company*—4, *Cranch*, 185, *Supreme Court U. S.* 1808.
- Blockade.
- Treaty with Great Britain. 39. If an act of confiscation, independent of the British treaty of peace of 1783, should be construed to destroy the claim of a British mortgagee of land in Georgia, the 5th art. of that treaty re-instates the lien in its full force.--*Higginson v. Mein*—4, *Cranch*, 419, *Sup. Court U. S.* 1808.
- Blockade.
40. A vessel sailing ignorantly for a blockaded port, is not liable to condemnation, under the law of nations.--*Yeaton v. Fry*—3, *Cranch*, 335, *Sup. Court U. S.* 1809.
- Treaty with Great Britain.
- Courts. 41. Copies of the proceedings in the vice admiralty court of Jamaica, are admissible in evidence, not only under the 19th art. of the British treaty of 1794, but under the law of nations, and the practice of Courts of Admiralty, when authenticated, under the seal of the Court, by the deputy Registrar, who is certified by the Judge of the Court, who is certified by a notary public.--*id. ib. and p.* 343.
- Treaty with Great Britain.
- Courts. 42. If a defendant in ejectment in a State Court, set up an outstanding title in a third person, no party to the suit; and contend that such outstanding title is protected by the British treaty, and the State Court decide that such outstanding title is not protected by the treaty, it is not such a case arising under a treaty, as will give appellate jurisdiction to the Supreme Court of the United States, under the constitution of the United States, although it be a case within the 25th sec. of the judiciary act of 1789 --*Owens v. Norwoods' lessee*—5, *Cranch*, 344, *Sup. Court U. S.* 1809.

43. The Continental Court of Appeals, *in prize causes*, had Prize.
power to revise and correct the sentences of the Admiralty Courts.
Courts of the several States.—*U. States v. Judge Peters*, 5—
Cranch, 115, *Sup. Court U. S.* 1809.
44. The British orders in council of the 11th of Nov. 1807, British orders in
did not prohibit a direct voyage from the United States, to a council.
colony of France.—*King v. The Delaware Insurance Compa-* Colonies.
ny—6, *Cranch*, 71, *Sup. Court U. S.* 1810.
45. The Supreme Court of the United States has appellate Treaty with Great
jurisdiction of a cause decided in the highest Court of one of Britain.
the States, where the question is whether a confiscation under Courts.
the law of the State, was complete before the treaty of peace Confiscation.
of 1783, with Great Britain.—*Smith v. Maryland Insurance*
Company—6, *Cranch*, 286, *Sup. Court U. S.* 1810.
46. By the confiscating acts of Maryland, the equitable *id.*
interests of British subjects were confiscated, without office
found, or entry, or other act done, and although such equita-
ble interests were not discovered until long after the peace—*id.*
47. The jurisdiction of French Courts, as to seizures, is France.
not confined to seizures made within two leagues of the coast. Courts.
Prize.
48. A seizure beyond the limits of the territorial jurisdic- Territorial juris-
tion, for breach of a municipal regulation, is warranted by diction.
the law of nations.—*Hudson v. Guestier*—6, *Cranch*, 281, *Sup-*
reme Court, U. S. 1810.
49. The letter of Mr Merry, to the Secretary of State, of
the 12th April, 1804, extended to the island of *Carragoa*,
the orders of the Lords Commissioners of the admiralty of the
5th of January, 1804, respecting the Blockade of *Martinique* Blockade.
and *Guadaloupe*, by which the British officers were directed
“not to consider any blockade of those Islands as existing
“unless in respect of particular ports, which may be actually
“invested; and then not to capture vessels bound to such
“ports, unless they shall have been previously warned not to
“enter them.”—*Maryland Insurance Company v. Wood*—7,
Cranch, 402, *Sup. Court U. S.* 1813.
50. A sentence of a foreign tribunal condemning neutral Prize.
property under an edict unjust in itself, contrary to the law
of nations, and in violation of neutral rights, and which has Foreign sentence.
been so declared by the legislative and executive departments
of the government of the United States, changes the property
of the thing condemned.—*Williams v. Armroyd*—7, *Cranch*,
423, *Sup. Court U. S.* 1813.
51. A sale by the authority of the captors, before sentence Prize.
of condemnation, is affirmed by such sentence, and is good
ab initio.—*id. ib.*

cargo to confiscation as prize of war.—*The Julia*—8, *Cranch*, 181. *Sup. Court United States*, 1814. *The Aurora*—8, *Cranch*, 203. *The Hiram*—8, *Cranch*, 444.

61. It is not necessary, in order to subject the property to License. condemnation for sailing under a license from the enemy, that the person granting the license, should be duly authorised to grant it, provided the person receiving it takes it with the expectation that it will protect his property from the enemy.—*The Aurora*, 8, *Cranch*, 203. *Sup. Court U. S.* 1814.

62. Sailing, with intent to further the views of the enemy, Enemy trade. Prize. is sufficient to condemn the property, although that intention be frustrated by capture.

63. Sailing with a cargo of provisions to the port of a neu- id. tral, who is the ally of our enemy in his war with another power, is such a furtherance of the views of the enemy, as will subject the ship and cargo to condemnation as prize of id. war.—*The Hiram*—8, *Cranch*, 444, *Sup. Court U. S.* 1814.

64. The case of a vessel and cargo belonging to a citizen Salvage. of one belligerent nation, captured on the high seas by a cru- Prize. zer of the other belligerent, given by the captor to a neutral, and by him brought into a port and libelled in a court of his own country, between which, and the nation to which the ves- sel originally belonged, war breaks out before final adjudication, is to be considered as a case of salvage. One moiety adjudged Confiscation. to the libellants, and the other moiety to remain subject to the future order of the court below; and to be restored to the original owner after the termination of the war, unless provi- sion should previously be made for the confiscation of enemy's property, found in the country at the declaration of war.—*The Adventure*—8, *Cranch*, 21, *Sup. Court. U. S.*, 1814.—*The Astrea*—1, *Wheaton*, 12; *Sup. Court. U. S.* 1816.

65. If a citizen of the United States establish his domicile Prize. in a foreign country, between which and the United States hostili- Domicil. ties afterwards break out, any property shipped by such citi- zen before knowledge of the war, and captured by an American cruizer after the declaration of war, must be condemned as lawful prize.—*The Venus*—8, *Cranch*, 253, *Sup. Court, U. S.*, 1814.

66. If the option be given to the consignee to take the goods Proprietary interest. Prize. to his own account or not, the right of property does not vest in the consignee until he has made his election.—*id. ib.*

67. A naturalized citizen, who, in time of peace, returns Prize. to his native country for the purpose of trade, but with inten- tion of returning to his adopted country, continuing in the for-

- Domicil.** mer a year after knowledge of the existence of war between the two countries, for the purpose of winding up his complicated affairs; and engaging in no new commercial transaction whatever with the enemy, and actually returning to his adopted country in a little more than a year after his first knowledge of the war, is to be considered as having gained a domicil in his native country.—And his goods captured during the war, are liable to condemnation.—*The Frances (Thompson and al. claimants)*—8, *Cranch*, 335. *Sup. Court U. S.* 1814.
- Prize.** 68. Goods, appearing by the Ship's papers to be a consignment from Alien enemies to American merchants, are liable to condemnation, as prize, although further proof was offered that American merchants were jointly interested, and that they had a lien upon the goods, in consequence of advances made by them.—*id. ib.*
- Proprietary interest.**
- Prize.** 69. The commercial domicil of a merchant at the time of the capture of his goods determines the character of those goods, hostile or neutral.—*The Frances (Gillespie's claim)*—8 *Cranch. Sup. Court U. S.*, 1814.
- Domicil.**
- Prize.** 70. A municipal forfeiture under the laws of the United States is absorbed in the more general operation of the law of war.—*The Sally*—8, *Cranch*, 382. *Sup. Court U. S.* 1814.
- Proprietary interest.**
- Prize.** 71. No lien upon enemy's property, by way of pledge for the payment of purchase money, or otherwise, is sufficient to defeat the rights of the captors in a prize court, unless in very peculiar cases, where the lien is imposed by a general law of the mercantile world, independent of any contract between the parties.—*The Frances (Irvin's claim)*—8, *Cranch*, 418. *Sup. Court U. S.* 1814.
- President's instructions**
- Prize.** 72. The President's instruction of 28th of August, 1812, was meant to protect all British merchandise on board an American ship without any exception on account of British proprietary interest.—*The Thomas Gibbons*—8 *Cranch*, 421, *Sup. Court U. S.* 1814.
- Enemy trade.**
- Prize.** 73. A vessel sailing to an enemy's country after knowledge of the war, and taken bringing from that country a cargo consisting chiefly of enemy-goods, is liable to confiscation as prize of war.—*The St. Lawrence*—8 *Cranch*, 434. *Sup. Court of the U. S.* 1814.
- id.**
- id.** 74. Trade with the enemy is not excused by the necessity of obtaining funds to pay the expenses of the ship; nor by the opinion of an American minister, expressed to the master, that by undertaking the voyage he would violate no law of the U. S.—*The Joseph*—8 *Cranch*, 451. *Sup. Court U. S.* 1814.

75. An illegal act committed in the former part of a circuitous voyage is good of condemnation.—*id. ib.* Prize.
76. A capture as prize of war may lawfully be made within the territorial limits of the United States at any place below low water-mark.—*id. ib.* id.
77. Timber floated into a salt water creek, where the tide ebbs and flows, leaving the ends of the timber resting on the mud at low water, and prevented by booms from floating away at high water, and so found at the commencement of the war, is to be considered as landed, and not subject to condemnation as prize of war.—*Brown v. U. S.—3 Cranch, 110. Sup. Court U. S. 1815.* id. Confiscation.
78. If a vessel be captured by a superior force, and a prize-master and small force be put on board, it is not the duty of the master and crew of the captured vessel to attempt to rescue her; for they may thereby expose the vessel to condemnation, although otherwise innocent: *The Short Staple—9 Cranch 55. Sup. Court U. S. 1815.* Prize. Rescue.
79. If a merchant vessel of the United States be seized by the naval force of the United States within the territorial jurisdiction of a foreign friendly power, for a violation of the laws of the United States, it is an offence against that power, which must be adjusted between the two governments. This court can take no cognizance of it; nor does the law connect that trespass with the subsequent seizure by the civil authority under the process of the district-courts, so as to annul the proceedings of that court against the vessel.—*The ship Richmond—9 Cranch, 102. Sup. Court U. S. 1815.* Territorial jurisdiction.
80. If, upon the breaking out of a war with this country, our citizens have a right to withdraw their property from the enemy's country, it must be done within a reasonable time. Eleven months after the declaration of war is too late —*The St. Lawrence—9. Cranch, 120. Sup. Court U. S. 1815.* Prize. Withdrawing funds.
81. Where an American consignee of two cargoes has an option to take or reject both, within 24 hours after their arrival, and he accept one, and says he will consider as to the other, the shipper may either cast the whole upon the American consignee, or resume the property and make the latter accountable for what came to his hands. The right of property in the cargo not accepted does not, *in transitu*, vest in the American house, but remains in the shipper and is liable to condemnation, he being an enemy.—*The Frances (Dunham and Randolphs' claim)—9 Cranch, 183. Sup. Court United States, 1815.* Prize. Proprietary interest.
82. The produce of an enemy's colony is to be considered Prize Domicil.

- as hostile property so long as it belongs to the owner of the soil, whatever may be his national character in other respects, or whatever may be his place of residence.—*30 hogsheds of sugar v Boyle*—9 Cranch, 191 *Supreme Court U. S.*, 1815.
- Domicil.** 83. An island, in the temporary occupation of the enemy is to be considered as an enemy's colony.—*id. ib.*
- Courts.** 84. In deciding a question of the law of nations, the court will respect the decisions of foreign courts.—*id. ib.*
- Prize Salvage.** 85. Salvage is an incident to the question of prize, and may be given upon a libel praying condemnation as prize of war.—*The schooner Adeline and cargo*—9 Cranch, *Sup. C. U. S.* 1815.
- Prize.** 86. The property of persons domiciled in France (whether they be Americans, Frenchmen, or foreigners) is good prize if recaptured after being 24 hours in the possession of the enemy, that being the rule adopted in the French tribunals.—*id. ib.*
- Domicil.** 87. Property unclaimed will be decreed as good prize. *id. ib.*
- Reciprocity.** 88. The district courts of the United States, (being neutral,) have jurisdiction to restore to the original Spanish owner, (in amity with the United States) his property captured by a French vessel whose force has been increased in the United States, if the prize be brought *infra præsulia*.—*The brig Alerta and cargo v. Blas Moran*—9 Cranch, 359. *Superior Court United States*, 1815.
- Prize.** 89. In order to constitute a capture, some acts should be done indicative of an intent to seize and to retain, as prize: It is sufficient if such intent is fairly to be inferred from the conduct of the captor.—*id. ib.*
- Treaty.** 90. The stipulation in a treaty that "free ships shall make free goods," does not imply the converse proposition that enemy "ships shall make enemy goods."—*The Nereide*—9 Cranch, 389. *Supreme Court United States*, 1815.
- Free ships free goods.** 91. Our treaty with Spain does not contain, either expressly, or by implication, a stipulation that enemy ships shall make enemy goods.—*id. ib.*
- Treaty with Spain.** 92. The principle of retaliation, or reciprocity, is no rule of decision in the judicial tribunals of the United States.—*id. ib.*
- Prize.** 93. A neutral may lawfully employ an armed belligerent vessel to transport his goods; and such goods do not lose their neutral character by the armament, nor by the resistance made by such vessel, provided the neutral do not aid in such armament or resistance, although he charter the whole vessel and be on board at the time of the resistance.—*id. ib.*
- Reciprocity.** 94. Although the original plaintiff become an alien enemy after the judgment below, yet the judgment in his favor may be affirmed in the Supreme Court upon a writ of error *Owens v. Hannay*—9 Cranch, 180. *Sup. Court U. S.* 1815.
- Neutral rights.**
- Alien.**

95. The President's instructions (to privateers) of the 28th of August, 1812, protected an American vessel sailing from England, in August 1812, in consequence of the repeal of the British orders in Council, and compelled by dangers of the seas to put into Ireland, where she was necessarily detained, until April, 1813, when she sailed again for the United States, under the protection of a British license. The continuity of the voyage was not broken. *The Mary*—9 *Cranch*, 126, 815. President's instructions.
British orders in council.
Continuity of voyage.
96. The holder of a bottomry bond, has not such an interest as will support a claim to the vessel in a court of prize. *id. ib.* Prize.
Bottomry.
97. An interest acquired in war, by possession, is divested by the loss of possession.—*The Astrea*, 1 *Wheaton*, 125, *Sup. Court U. S.* 1816. Prize.
98. The appellate jurisdiction of the Supreme Court of the United States, extends to a final judgment or decree, in any suit in the highest Court of law, or equity of a State, where is drawn in question the validity of a treaty, and the judgment or decree is against the validity of the right claimed under the treaty; and such judgment may be re-examined by writ of error, in the same manner as if rendered in a Circuit Court.—*Martin v. Hunter's lessee*—1 *Wheaton*, 304. *Sup. Court U. S.* 1816. Treaty.
Courts.
99. Provisions, neutral property, but the growth of the enemy's country, and destined for the supply of the enemy's military or naval forces, are contraband; but if they be the growth of a neutral country, and destined for the general supply of human life in the enemy's country, they are not contraband.—*The Commercen*—1 *Wheaton*, 382, *Sup. Court U. S.* 1816. Prize.
Contraband Provisions.
100. Freight is never due to the neutral carrier of Contraband.—*id. ib.* Prize.
Contraband Freight.
101. A neutral ship laden with provisions, enemy's property, and the growth of an enemy's country, specially permitted to be exported for the supply of his forces, is not entitled to freight. It makes no difference, in such case, that the enemy is carrying on a distinct war, in conjunction with his allies, who are friends of the captor's country, and the provisions are intended for the supply of his troops, engaged in that war; and that the ship in which they are transported, belongs to subjects of one of those allies.—*id. ib.* id.
102. Goods, the property of persons actually domiciled in the enemy's country, at the breaking out of the war, are subject to capture and condemnation as prize.—*The Mary and Susan*—(*Richardson Claimant*,) 1 *Wheat*, 46. *Sup. Court*, Prize.
Domicil.

U. S. 1816. See also, 2 *Dallas*, 42—*Mr Vantelengen's claim, in the continental Court of Appeals*, and 2 *Cranch*, 65, *Murray v. Charming Betsey*.

Alien.
Prize.

103. The fact, that the commander of a privateer was an alien enemy, at the time of the capture made by him, does not invalidate such capture.—*id. ib.*

Prize.
Freight.

104. If part of the cargo of a neutral vessel, brought in for adjudication, be condemned and part restored, the freight is chargeable upon the whole cargo, as well upon that part restored as upon that condemned. *Query*. Whether more than a *pro rata* freight be due to the master.—*The Antonia Johanna*, 1 *Wheat*, 159. *Sup. Court U. S.* 1826.

Prize.
Domicil.

105. It seems that the property of a house of trade in the enemy's country, is confiscable as a prize of war, notwithstanding the neutral domicil of one or more of its partners.—*id. ib.*

Prize.

Neutral rights.

106. The courts of this country, have no jurisdiction to redress any supposed torts committed on the high seas, upon the property of its citizens by a cruiser regularly commissioned by a foreign and friendly power. except where such cruiser has been fitted out in violation of our neutrality.—*L'Invincible*—1, *Wheaton*, 238. *Sup. Court U. S.* 1816.

Prize.

Courts.

107. The exclusive cognizance of prize questions belongs to the capturing power. This is a consequence of the equality and absolute independence of sovereign states, on the one hand, and of the duty to observe uniform, impartial, neutrality, on the other. Under the former, every sovereign becomes the acknowledged arbiter of his own justice, and cannot, consistently with his dignity, stoop to appear at the bar of other nations to defend the acts of his commissioned agents, much less the justice and legality of those rules of conduct which he prescribes to them. Under the latter, neutrals are bound to withhold their interference between the captor and captured; to consider the fact of possession as conclusive evidence of the right. Under this, it is also, that it becomes unlawful to divest a captor of possession, even of the ship of a citizen, when seized under a charge of having trespassed upon belligerent rights.—*id. p.* 254, 255.

Prize.

Neutral rights.

108. That the mere fact of seizure as prize does not, of itself, oust the neutral admiralty court of its jurisdiction, is evident from this fact, that there are acknowledged cases in which the courts of a neutral may interfere to divest possessions; to wit: those in which her own right to stand neutral is invaded: and there is no case in which the court of a neutral

may not claim the right of determining whether the capturing vessel be, in fact, the commissioned cruiser of a belligerent power. Without the exercise of jurisdiction, thus far, in all cases, the power of the admiralty would be inadequate to afford protection from piratical capture.—*id.* p. 258.

109. Navigating under a license from the enemy is cause of confiscation, and is closely connected in principle with the offence of trading with the enemy; in both cases the knowledge of the agent will affect the principal, although he may, in reality, be ignorant of the fact.—*The Hiram*—1, *Wheaton*, 440, 447. 1816.

110. The following is an account of the dates and substance of the British orders in council, and the French decrees, affecting our neutral rights, and which preceded the war of 1812 between Great Britain and the United States.

On the 16th of May, 1806, the British Government issued an order in council, declaring the coast included between the Elbe and Brest in a state of blockade.

On the 21st of November, 1806, the French emperor issued his Berlin decree, declaring Great Britain and her dependencies in a state of blockade.

On the 7th of January, 1807, the British government issued an order in council, prohibiting neutral ships from carrying on trade from one enemy's port to another, including France and her allies.

On the 11th of November, 1807, the British orders in council were issued, which declared the continental ports from which British ships were excluded in a state of blockade, (except in case of ships cleared out from Great Britain whose cargoes had paid a transit duty,) and rendered liable to condemnation all neutral ships, with their cargoes, trading to or from the ports of France, or her allies, and their dependencies, or having on board certificates of origin.

On the 7th of December, 1807, the French emperor issued his Milan decree, declaring that any neutral ships which should have touched at a British port, or paid a transit duty to the British government, or submitted to be searched by British cruisers, should be liable to condemnation.

On the 22d of December, 1807, the American embargo took place.

On the 1st of March, 1809, the embargo was removed, and a non-intercourse substituted with both France and England.

On the 19th of April, 1809, a negotiation was concluded by Mr Erskine, in consequence of which the trade with Great Britain was renewed on the 10th of June.

British orders. On the 26th April, 1809, a British order in council was issued, modifying the former blockade, which was henceforth to be confined to ports under the governments of Holland (as far north as the river Ems) and France, together with the colonies of both, in all ports of Italy included between Obitello and Pesaro.

On the 10th of August, 1809, the non-intercourse with Great Britain again took place, in consequence of Mr Erskine's arrangement not being ratified.

On the 1st of May, 1810, the trade with both Great Britain and France was opened, under a law of congress, that whenever either power should rescind its orders or decrees, the president should issue a proclamation to that effect; and in case the other party should not, within three months, equally withdraw its orders or decrees, that the *non-importation act* should go into effect with respect to that power.

On the 2d of November, 1810, the president issued his proclamation, declaring the Berlin and Milan decrees to be so far withdrawn, as no longer to affect the neutral rights of America; and the orders in council not being rescinded.

On the 2d of February, 1811, the importation of British goods, and the admission of British ships into America, were prohibited.

On the 4th of April, 1812, an embargo was laid in the United States, and on the 18th of June following, war was declared against Great Britain.—1 *Wheaton*, p. 278, 279.

Prize. 111. If the national character of property captured and brought in for adjudication appear ambiguous or neutral, and no claim be interposed, the cause will be postponed for a year and a day after the prize proceedings are commenced: and if no claimant appear within that time, the property will be condemned to the captors.—*The Harrison*—1 *Wheat.* 298 1816;

Proprietary interest.

Prize.

Practice.

112. As to the principles of *practice* in prize causes, see Wheaton's note II. in the appendix to the 1st vol. of his Reports, p. 494, and note I. in the appendix to his 2d volume of Reports, p. 1.

Neutral rights. Rule of 1756.

113. As to "*the Rule of the War of 1756*," and its history, see Mr. Wheaton's note III. in the appendix to the 1st vol. of his Reports, p. 507.

Prize.

Enemy trade.

114. Trading with the enemy, by own citizens, whether from our own or a foreign port, is lawful cause of confiscation as prize: and the offence is complete the moment the vessel sails with intent to carry a cargo to the port of an enemy.—*The Ruger*—1 *Wheaton*, 74. 1816.

115. Where enemy's property is fraudulently blended in the same claim with neutral property, the latter is liable to share the fate of the former. — *The St. Nicholas*—1 *Wheaton*, 417, 431. 1816. 1 *Caine's Reports*, 565—*Blagge v. New York Insurance Company*—*Supreme Court of New York* 1804.—2 *Binney*, 308—*The Phoenix Insurance Company v. Prat et al*—*Supreme Court of Pennsylvania* 1816. Prize

116. The "Rule of 1756" prohibits a neutral from engaging, in time of war, in a trade in which he was prevented from participating in time of peace, because that trade was, by law, exclusively reserved for the vessels of the hostile state. This prohibition stands upon two grounds:—1st. That a trade, such as the coasting or colonial trade, which, by the permanent policy of a nation, is reserved for its own vessels, if opened to neutrals during war, must be opened under the pressure of the arms of the enemy, and in order to obtain relief from that pressure. The neutral who interposes to relieve the belligerent under such circumstances, rescues him from the condition to which the arms of his enemy have reduced him, restores to him those resources which have been wrested from him by the arms of his adversary, and deprives that adversary of the advantages which successful war has given him. This the opposing belligerent pronounces a departure from neutrality, and an interference in the war to his prejudice, which he will not tolerate. 2d. That if the trade be not opened by law, a neutral employed in a trade thus reserved, by the enemy, to his own vessels, identifies himself with that enemy, and by performing functions exclusively appertaining to the enemy character, assumes that character.—*The Commercen*—1 *Wheaton*, 396, 397. 1816. Neutral rights. Rule of 1756.

117. A British subject claiming to take lands in this country by descent from a British subject in 1798, under the British treaty of 1794, must show title in his ancestor at the time of making the treaty.—*Harden v. Fisher*—1 *Wheaton*, 390. 1816. Alien.

118. In prize causes, the evidence to acquit or condemn, must come, in the first instance, from the papers and crew of the captured ship. Prize.

It is the duty of the captors to bring the ship's papers into the registry of the district court, and to cause the examinations of the principal officers and seamen of the captured ship to be taken on the standing interrogatories. It is exclusively upon these papers and examinations that the cause is to be Practice.

heard in the first instance. If, from this evidence the property clearly appears to be hostile, or neutral, condemnation or restitution, immediately follows. If the property appears to be doubtful, or the case suspicious, farther proof may be granted, according to the rules which govern the legal discretion of the court.

If the parties have been guilty of fraud, or gross misconduct, or illegality, farther proof is not allowed, and condemnation follows.

If a party attempt to impose upon the court, by knowingly or fraudulently claiming as his own, property belonging in part to others, he will not be entitled to restitution of that portion which he may ultimately establish as his own.

The claimants have no right to litigate the question whether the captors were duly commissioned; but if the capture be made by a non-commissioned captor, the prize will be condemned to the United States.—*The Dos Hermanos*—2 *Wheaton*, 77. 1817.

- Prize. 119. The sailing under the enemy's license, constitutes, of itself, an act of illegality, which subjects the property to confiscation, without regard to the object of the voyage, or the port of destination.—*The Ariadne*—2 *Wheaton*, 143. 1817.
- License.
- Prize. 120. Concealment, or even spoliation of papers, is not, of itself, a sufficient ground for condemnation in a prize court; but it may be ground for denying further proof.—*The Pizarro*—2 *Wheaton*, 241. 1817.
- Spoliation of papers.
- Neutral rights. 121. The right of visitation and search is a belligerent right which cannot be drawn in question; but must be conducted with as much regard to the safety of the vessel detained, as is consistent with the thorough examination of her character and voyage.—*The Anna Maria*—2 *Wheaton*, 327—1817. *The Eleanor*—2 *Wheaton*, 358-262. 1817.
- Right of search
- Prize. 122. Under the Spanish treaty of 1795, stipulating that free ships shall make free goods, the want of such a sea letter or passport, or such certificates as are described in the 17th article, is not a substantive ground of condemnation; it only authorizes capture and sending in for adjudication; and the proprietary interest in the ship may be proved by other equivalent testimony.—*The Pizarro*—1 *Wheat* 227. 1817.
- Sea-letter.
- Proprietary interest.
- Treaty with Spain. 123. The term "subjects," in the 15th article, extends to all persons domiciled in the Spanish dominions.—*Id. ib.*
- Alien. 124. The power of naturalization is exclusively in Congress.—*Chirac v. Chirac*—2 *Wheaton*, 269. 1817.
- Naturalization.

125. The treaty between France and the United States, Alien. of 1778, enabled the subjects of France to hold lands in the United States.—*Id.* p. 270.

The repeal of that treaty did not affect the title of a Frenchman, who, before its repeal, became naturalized under the act of Congress. Upon his death, in 1799, intestate, his lands descending in fee to his French heirs under the Maryland statute of 1780, whose title was determinable upon their failure to perform the condition contained in that act. While they were so seized in fee, another treaty was entered into between France and the United States in 1800, which enabled French subjects to dispose of their lands by testament or otherwise, and to inherit lands without obtaining letters of naturalization. This treaty did away the incapacity of alienage, and placed these French heirs in precisely the same situation, with respect to lands, as if they had become citizens. But the treaty farther stipulates, "that in case the laws of either of the two states should restrain strangers from the exercise of the rights of property with respect to real estate, such real estate may be sold, or otherwise disposed of, to citizens or inhabitants of the country where it may be." This will probably prevent a French subject from inheriting or purchasing the estate of a French subject, who is not also a citizen of the United States; but it cannot affect the right of him who takes or holds by virtue of the treaty, so as to deprive him of the power to sell, or otherwise dispose of, the property to citizens or inhabitants of this country. This power endures for life. This treaty controlled the act of Maryland, and substituted the term of life for the term of ten years. The expiration of the treaty did not affect the rights acquired and vested under it.—*Chirac v. Chirac*—2 *Wheaton*, 269 to 278. 1817.

126. It seems that where a native citizen of the United Prize. States emigrated, before a declaration of war, to a neutral country, there acquired a domicile, and afterwards returned to Domicil. the United States during the war, and re-acquired his native domicile, he became a reintegrated American citizen; and could not afterwards, *flagrante bello*, acquire a neutral domicile by again emigrating to his adopted country.—*The Dos Hermanos*—2 *Wheaton*, 77-98. 1817.

127. The commander of a squadron is liable to individuals Prize. for the trespasses of those under his command, in case of positive or permissive orders, or of actual presence and co-operation.—*The Eleanor*—2 *Wheaton*, 356.

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Prize. So the commander of a single ship is responsible for the acts of those under his command; as are, likewise, the owners of privateers for the conduct of the commanders appointed by them.—*Id. ib.*

Proprietary interest. 128. Under the treaty with Spain, the Spanish character of the vessel being ascertained, the proprietary interest in the cargo cannot be inquired into, unless so far as to ascertain that it does not belong to citizens of the United States, whose property engaged *in trade with the enemy* is not protected by the treaty.—*The Pizarro*—2 *Wheaton*, 246. 1817.

New States. 129. The act of Congress of 1794, ch. 50, sec. 3, prohibiting the fitting out any ship, &c. for the service of a foreign prince or state, to cruise against the subjects of any other foreign prince or state, with whom the United States are at peace, does not apply to any new state not acknowledged by the United States, or by the government of the country, to which such new state previously belonged.—*Gelston v. Hoyt*—3 *Wheaton*, 328. 1818

Courts. 130. The decision of a court of peculiar and exclusive jurisdiction, is completely binding upon the judgment of every other court, in which the same subject matter comes incidentally in controversy. Such are the sentences of ecclesiastical courts in the probate of wills, and granting of administrations of personal estate; the sentences of prize courts in all matters of prize jurisdiction; and the sentences of courts of Admiralty, and other courts acting *in rem.* either to enforce forfeitures or to decide civil rights.

Prize. And the sentence is equally conclusive whether it be of condemnation or acquittal—*Id. p.* 315-316.

New States. 131. It belongs exclusively to *governments* to recognise new states, arising in the revolutions which may occur in the world; and until such recognition, either by our own government, or the government to which the new state belonged, courts of justice are bound to consider the ancient state of things as remaining unaltered.—*Id. p.* 324.

Courts. Neither the Government of *Petion*, nor *Christophe* (the rival chiefs in the island of St. Domingo,) had been recognised as a foreign state by the government of France, or of the United States, in the year 1818.—*Id. p.* 325.

St. Domingo. 132. A married woman who was a British subject before the revolution, and always continued such, but whose husband resided in this country both before and after that period, was entitled to a dower of those lands of which he was seized

Alien.

before the revolution, but not of those of which he was subsequently seized.—*Kelly v. Harrison*—2 *Johns. cases*, 29. *Supreme Court, of New York* 1800.

133. When the lands of a British subject in N. York, descended in 1752, to his daughters who were British subjects, and who married British subjects, neither they nor their wives having become citizens of the United States, such marriages even after the revolution, did not impair the rights of the wives, nor prevent the full enjoyment of the property, according to the rights of the marriage state, especially after the provision of the 9th art. of the treaty of 1794.—*Jackson v. Lunn*, 3 *Johns cases*, 109 1802—*Jackson v. Wright*, 4 *Johns. Rep.* 75. *Supreme Court of New York.* 1809. Aliens

134. The treaty of 1794 relates only to lands then held by British subjects, and not to any after acquired lands.—*Jackson v. Decker*—11 *Johns. Rep.* 418, 422, *Sup. Court, New York*, 1814. id.

135. An Alien may, by the common law, take by purchase a freehold or other interest in land, and may hold it against the world, except the King; and even against him until office found, and is not accountable for rents and profits previously received.—*Craig v. Leslie*—3 *Wheat.* 589. 1818.—*Craig v. Radford*—3 *Wheaton*, 594. 1818.

136. A grant of land by Virginia in 1788, to a British subject, issued upon a warrant, and survey made in 1774, vested a good title in fee in the British subject, which title was rendered absolute and indefeasible by the 9th art. of the treaty of 1794.—*Craig v. Radford*—3 *Wheaton*, 594, 599. 1818. id.

137. The native character does not revert by a mere return to his native country, of a merchant domiciled in a neutral country at the time of capture, who afterwards leaves his commercial establishment in the neutral country, to be conducted by his clerks in his absence, who visits his native country merely on mercantile business and intends to return to his adopted country. Under these circumstances the neutral domicile still continues.—*The Friendschaft*—3 *Wheaton*, 14—1814. Prize.
Domicil.

138. British subjects, resident in Portugal (though entitled to great privileges) do not retain their native character, but acquire that of the country where they reside and carry on their trade.—*Id.* p. 14. id.

139. By the law of this country the rule of reciprocity prevails upon the recapture of the property of friends. The Prize.
Reciprocity.

law of France denying restitution upon salvage after 24 hours possession by the enemy, the property of persons domiciled in France is condemned as prize by our courts, on recapture, after being in possession of the enemy that length of time.—*The Star*—3 *Wheaton*, 78, 92. 1818.

Prize.
License. 140. One citizen of the United States has no right to purchase of, or sell to another, a license or pass from the public enemy, to be used on board an American vessel.—*Patton v. Nicholson*—3 *Wheaton*, 204, 207.

Piracy.
Courts. 141. A robbery committed on the high seas, although such robbery, if committed on land, would not, by the laws of the United States, be punishable with death, is piracy under the 8th § of the act of 1790, c. 36, (ix.) for the punishment of certain crimes against the United States and the circuit courts of the United States have jurisdiction thereof.—*The United States v. Palmer*—3 *Wheaton*, 610, 626 1818.

The crime of robbery, as mentioned in the act is the crime of robbery as recognized and defined at common law. *Id.* 630.

The crime of robbery committed by a person who is not a citizen of the United States on the high seas, on board of a ship belonging exclusively to subjects of a foreign state, or on persons in a foreign vessel, is not piracy under the act, and is not punishable in the courts of the United States.—*Id. ib.*

New States.
Courts. 142. When a civil war rages in a foreign nation, one part of which separates itself from the old established government, and erects itself into a distinct government, the courts of the Union must view such newly constituted government as it is viewed by the legislative and executive departments of the government of the United States. If that government remains neutral, but recognises the existence of a civil war, the courts of the Union cannot consider as criminal those acts of hostility which war authorises, and which the new government may direct against its enemy.—*Id.* 634.

The same testimony which would be sufficient to prove that a vessel or person is in the service of an acknowledged state, is admissible to prove that they are in the service of such newly created government. Its seal cannot be allowed to prove itself, but may be proved by such testimony as the nature of the case admits: and the fact that a vessel or person is in the service of such government may be established otherwise, should it be impracticable to prove the seal.—*id.* 635.

Prize. 143. Where a neutral ship-owner lends his name to cover a fraud with regard to the cargo, this circumstance will subject

the ship to condemnation.—*The Fortuna*—3 *Wheaton*, 236-245. 1818.

144. Spoliation of papers by an enemy master, carrying a cargo chiefly hostile, will not preclude a neutral claimant, to whom no fraud is imputable, from further proof. *The Friendschaft*—3 *Wheaton*, 48. Prize. Spoliation of papers.

145. A blockade does not, according to modern usage, extend to a neutral vessel found in port, nor prevent her coming out with a cargo which was on board when the blockade was instituted. *Olivera v. The Union Ins. Company*—3 *Wheaton*, 194—1818. Prize. Blockade.

146. A neutral cargo found on board an armed enemy's vessel is not liable to condemnation as a prize of war. *The Atlanta*—3 *Wheaton*, 409-15. 1818. Prize. Neutral rights.

147. It is not competent for a neutral Consul, without the special authority of his government, to interpose a claim on account of a violation of the territorial jurisdiction of his country. *The Anne*—3 *Wheaton*, 435-445—1818. Prize. Consul.

Quere, Whether such a claim can be interposed even by a public minister, without the sanction of the government in whose tribunals the cause is pending?—*id.* p. 446.

148. A capture made within neutral territory is, as between the belligerents, rightful, and its validity can only be questioned by the neutral state.—*id.* p. 447. Prize. Neutral rights.

149. If the captured ship commence hostilities upon the captor within the neutral territory, she forfeits the neutral protection, and the capture is not an injury for which redress can be sought from the neutral sovereign.—*id.* *ib.* id. id.

150. British subjects who took lands in New York by devise in December, 1776, continued to hold the same until their title became complete by the 9th article of the treaty of 1794. *Jackson v. Clarke*—3 *Wheaton*, 1. 1818. Treaty with G Britain. Alien.

151. By the maritime law, condemnation completely extinguished the title of the former owners. *The Star*—3 *Wheaton*, 86. 1818. Prize. *Jus Postliminii*

152. The original owner of an American vessel, captured by the enemy, condemned, sold, and re-captured by an American privateer, was not entitled to restitution on payment of salvage under the salvage act of 3d March, 1800, ch. 14, and the prize act of 26th June, 1812, ch. 107. *The Star*—3 *Wheaton*, 78. 1818. Prize. Salvage. *Jus Postliminii*

153. As to the rules of the several maritime codes, in regard to salvage, see Mr Wheaton's note to the case of *The Star*—3 *Wheaton*, 93. Salvage.

- Alien.** 154. An alien may take an estate in lands by the act of the parties, as by *purchase*, but he cannot take by the act of the law, as by *descent*.—*Orr v. Hodgson*—4 *Wheaton*, 453. 1819.
- Treaty with G. Britain.** 155. The 6th article of the treaty of peace of 1783, completely protected the titles of British subjects to lands in the United States which would have been liable to escheat for the defect of alienage. That article was not meant to be confined to confiscations *jure belli*.—*id. ib.*
- Alien.** 156. The 9th article of the British treaty of 1794 gives to the title of the parties, whatever it may be, the same legal validity as if they were citizens. It is not necessary to show actual seizure or possession, but only that the title was in them at the time the treaty was made.—*id. ib.*
- Treaty with G. Britain.** The 9th article of that treaty did not mean to include any other persons than British subjects and citizens of the United States.—*id. ib.*
- Prize.** 157. The property of a house of trade established in the enemy's country is condemnabale as prize, whatever may be the personal domicil of the partners.—*The Friendship*—4, *Wheaton*, 105. 1819.
- Domicil.**
- Conquest.** 158. By the conquest and military occupation of a portion of the territory of the United States by a public enemy, that portion is to be deemed a foreign country, so far as respects our revenue laws.—*United States v. Rice*—4 *Wheaton*, 247-254. 1818.
- Prize.** 159. A vessel and cargo which is liable to seizure as enemy's property, or for sailing under the pass or license of an enemy, may be seized after her arrival in a port of the United States, and condemned as prize of war. The *delictum* is not purged by the termination of the voyage.—*The Caledonian*—4 *Wheaton*, 100. 1819.
- License.**
- New states.** 160. The government of the United States, having recognized the existence of a civil war between Spain and her colonies, but remaining neutral, the courts of the United States are bound to consider as lawful, those acts which war authorises, and which the new governments in South America may direct against their enemy.—*The Divina Pastora*, 4 *Wheaton*, 52-63. 1819.
- Courts.** Captures made by the cruizers of those governments, are to be regarded by us, captures *jure belli*, the legality of which cannot be determined by the courts of a neutral country, unless the neutral rights of the United States be violated.—*Id.* 64.

161. As to the jurisdiction of neutral courts over belligerent captures, made in violation of the neutral jurisdiction, see Mr Wheaton's note to the case of the *Divina Pastora*.—4 *Courts*. *Wheaton*. 65. 1819. *Neutral rights*.

For a collection of the public acts by which the government of the United States recognized the existence of a civil war between Spain and her colonies, before the year 1819—See Mr Wheaton's *Appendix to the 4th vol. of his reports, page 23 to 59.* *Spanish colonies*.

162 The right of adjudicating, on all captures, and questions of prize belongs exclusively to the courts of the captors, country; but it is an exception to this general rule, that where the captured vessel is brought, or voluntarily comes, *infra præsida* of the neutral power, that power has a right to enquire whether its own neutrality has been violated by the capturing cruiser; and if such violation has been committed, is in duty bound to restore to the original owner, property captured by cruisers illegally equipped in its ports.—*The Estrella*—4 *Wheaton*, 307. 1819. *Prize*. *Courts*. *Neutral rights*.

163. No part of the act of the 5th of June, 1794, c. 226, was repealed by the act of the 3d of March, 1817, c. 58. The act of 1794, c. 226, remained in force until the act of 20th of April, 1818, c. 83, by which all the provisions respecting our neutral relations were embraced, and all former laws on the same subject were repealed.—*Id.* 311. *id.*

164. In the absence of every act of Congress on the subject, the Courts of the United States would have authority, under the general law of nations, to decree restitution of property captured in violation of their neutrality, under a commission issued within the United States, or under an armament, or augmentation of the armament, or crew, of the capturing vessel, within the same *Id.* 311. *Courts*. *Neutral rights*.

165. War having been recognised to exist between Spain and her colonies, by the government of the United States, it is our duty, when a capture is made by either of the belligerent parties, without any violation of our neutrality, and the prize is brought innocently within our jurisdiction, to leave things in the same state they find them; or to restore them to the state from which they have been forceably removed by the act of our own citizens. *The Neustra Senora de la Caridad*. 4 *Wheaton*, 502. 1819. *New states*. *Colonies*.

The above case was not within the Spanish treaty, as the Carthaginian captors were not pirates, and the capture was *Treaty with Spain*.

not made within the jurisdictional limits of the United States, the only two cases in which the treaty enjoins restitution. *Id.* 502.

Piracy. 166. Upon a piratical capture, the property of the original owners cannot be forfeited for the misconduct of the captors in violating the municipal laws of the country, to which the vessel seized by them is carried. *The Jocefa Segunda*—5 *Wheaton*, 338, 351. 1820

Prize. 167. But where the capture is made by a regularly commissioned captor he acquires a title to the captured property, which can only be divested by recapture, or by the sentence of a competent tribunal of his own country; and the property is liable to forfeiture for a violation, by the captor, of the revenue, or other municipal laws of the neutral country into which the prize is carried. *Id.*

Jurisdiction. High seas. 168. A murder committed on board of a ship of war of a nation, on the high seas, is committed within the jurisdiction of that nation.—

Mr Marshall's speech in the House of Representatives of the United States, upon the case of Thomas Nash, alias Jonathan Robbins See p. 5 of the Appendix to 5 Wheaton's Rep.

The jurisdiction of a nation at sea, is *personal*, reaching *its own citizens only*; and consequently that of the United States cannot extend to a murder committed by a British sailor on board a British frigate navigating the high seas, under a commission from the King of Great Britain. *Id.* p. 6 and 7.

A contract made at sea is governed and to be decided upon according to the laws of that nation to which the vessel, or contracting parties, belong. *Id.* p. 7.

So if a crime be committed on board a ship at sea, no nation but that to which the vessel belonged has jurisdiction of the offence and can punish the offender. *Id.* *ib.*

The right of every nation to punish is, in its nature, limited to offences against the nation inflicting the punishment. It comprehends every possible violation of its laws on its own territory, and extends to violations committed elsewhere by persons it has a right to bind. It extends also to *general piracy*. A pirate, under the law of nations, is an enemy of the human race. Being the enemy of all, he is liable to be punished by all; any act which denotes this universal hostility, is an act of piracy. Not only actual robbery therefore, but cruising on the high seas without commission and with intent to rob, is piracy. This is an offence against all and every na-

Piracy.

tion, and is therefore alike punishable by all. But an offence, Piracy. which, in its nature, affects only a particular nation, is only punishable by that nation. It is by confounding general piracy, with piracy by statute, that indistinct ideas have been produced respecting the power to punish offences on the high seas. A statute may make any offence piracy, committed within the jurisdiction of the nation passing the statute, and such offence will be punishable by that nation. But piracy under the law of nations, which alike is punishable by all nations, can only consist in an act which is an offence against all. No particular nation can increase or diminish the list of offences thus punishable. *d. p. 7 and 8.*

No new offence is made piracy by the British Statutes which make offences committed at sea, triable and punishable as if committed on land. If a man be indicted as a pirate the offence must be shown to have been piracy before the statute, except where *in the case of British subjects*, express acts of parliament have declared that the crimes therein specified shall be adjudged piracy, or shall be liable to the same mode of trial and degree of punishment.

It is true that the offence (piracy) may be completed by a single act; but it depends upon the nature of that act. If it be such as manifests a general hostility against the world; an intention to rob generally, then it is piracy.—*id. p. 9, 10 and 11.*

169. If a British subject commit distinct acts of murder and piracy on board a British frigate at sea, and escape into this country, he is liable to be lawfully arrested and delivered by the President of the United States, up to the British Government, under the 27th Article of the British Treaty of 1794, although he might be tried for the piracy in the courts of this country.—*id. p. 11 and 12.*

Treaty with
G. Britain.

Fugitives.

The judicial power of the United States is by the constitution confined to cases *in law and equity*; it cannot extend to political compacts, as the establishment of a boundary line between the American and the British dominions; the case of the late guaranty in the treaty with France; or the case of the delivery of a murderer under the 27th article of our treaty with Great Britain.—*id. . 17.*

Courts.

170. Piracy, under the law of nations is of admiralty and maritime jurisdiction; and upon this principle the courts of admiralty under the confederation took cognizance of piracy, although there was no power in congress to define and punish the offence.—*id. p. 18.*

Piracy.

Courts.

Admiralty.

President of
U. States.

171. The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations. Of consequence the demand of a foreign nation can only be made on him. He possesses the whole executive power. He holds and directs the force of the nation. Of consequence, any act to be performed by the force of the nation is to be performed through him.

Treaty.

He is charged to execute the laws. A treaty is declared to be law. He must then execute a treaty, where he and he alone, possesses the means of executing it.—*id.* p. 26.

President of
U. States.

172. The President may order a *nolle prosequi* to be entered.—*id.* p. 29.

Piracy.

173. The act of the 30th of April, 1790, c. 36 §. 8, concerning certain crimes committed upon the high seas, &c. extend to all persons on board all vessels which throw off their national character by cruising piratically, and committing piracy on other vessels.—*U. S. v. Klintock*—5 *Wheaton*, 152. 1820. *U. S. v. Furlong*—5 *Wheaton*, 184--192. 1820.

id.

174. The act of the 3d of March, 1819, c. 76, §. 5, referring to the law of nations for a definition of the crime of piracy, is a constitutional exercise of the power of Congress to define and punish that crime.—*United States, v. Smith*—5 *Wheaton*, 153--157. 1820.

The crime of piracy is defined by the law of nations with reasonable certainty.—*id.* p. 160.

Piracy, by the law of nations, is robbery upon the sea—*id.* 162.

Piracy.

175. The 8th §. of the act of the 30th of April, 1790, c. 36, for the punishment of certain crimes against the United States is not repealed by the act of the 3d of March, 1819, c. 76, to protect the commerce of the United States, and to punish the crime of piracy — *United States v. Furlong and al.*—5 *Wheaton*, 184-192. 1820.

In an indictment for a piratical murder (under the act of the 30th of April, 1790, c. 36, §. 8,) it is not necessary to allege that the prisoner is a citizen of the United States, nor that the crime was committed on board a vessel belonging to citizens of the United States, but it is sufficient to charge it as committed *from* on board such a vessel by a mariner sailing on board such a vessel. *id.* 194.

The words, "out of the jurisdiction of any particular State," in the act of the 30th of April, 1790, c. 36, §. 1, mean out of the jurisdiction of any particular state of the Union. *id.* p. 200.

High seas.

A vessel lying in an open roadstead of a foreign country, is

“upon the high seas” within the act of 30 April 1790, c. 36, §. 8. *id. ib.*

A citizen of the United States fitting out a vessel in the ports of the United States, to cruise against a power in amity with the United States, is not protected by a foreign commission from punishment for any offence committed against the property of citizens of the United States. *id. p.* 210.

176. The courts of the United States have jurisdiction under the act of 30th April, 1790, c. 36 §. 8. of murder or robbery committed on the high seas by a citizen, or by a foreigner on board of a piratical vessel; and the burden of proof is on the prisoners to show the national character of the vessel. The offence is equally within the statute if the murder be committed by throwing the person into the sea. *The United States, Holmes—5 Wheaton. 416-418. 1820.* Piracy.

177. In cases of violation of our neutrality by any of the belligerents, if the prize come voluntarily within our territory, it is to be restored to the original owner by our courts. But their jurisdiction for this purpose, under the law of nations, extends only to restitution of the specific property with cost and expenses during the pendency of the suit, and does not extend to the infliction of vindictive damages, as in ordinary cases of marine torts. *The Josefa Segunda—5 Wheaton, 389, 1820.* Prize. Neutral rights. Courts. Law of nations.

178. Where the original owner seeks for restitution in our courts upon the ground of a violation of our neutrality by the captors, the *onus probandi* rest upon him; and if there be reasonable doubts respecting the facts, the court will decline to exercise its jurisdiction. *id.* 391. Prize. Neutral rights. Courts.

179. On the subject of prize law, and the prize ordinances of foreign governments, see 5 *Wheaton's Appendix, Note III.* Prize.

180. On the subject of the neutrality of the United States, in the contest between Spain and her colonies, See 6 *Wheaton's Appendix, Note V.* Spanish colonies.

181. Whether the capture be made by a duly commissioned captor, or not, is a question between the government and the captor with which the claimant has nothing to do.—*The Amiable Isabella—6 Wheaton, 1, 66—1821.* Prize.

182. The 17th article of the Spanish treaty of 1795, so far as it purports to give any effect to passports, is imperfect and inoperative, in consequence of the omission to annex the form of passport to the treaty; consequently the proprietary interest of the ship is to be proved according to the ordinary rules of the prize court; and if thus shown to be Spanish, will protect the cargo.—*id. p.* 69. Treaty with Spain. Proprietary interest.

Prize.
Practice.

183. By the rules of the prize court the *onus probandi* of a neutral interest rests on the claimant—*id.* p. 77.

The evidence to acquit or condemn must come in the first instance from the ship's papers, and the examination of the captured persons. Where these are not satisfactory, farther proof may be admitted, if the claimant has not forfeited his right to it, by a breach of good faith. On the production of further proof, if the neutrality of the property be not established beyond reasonable doubt, condemnation follows.

The assertion of a false claim, in whole or in part, by an agent, or in connivance with the real owner, is a substantive cause of condemnation. *id. ib.*

Consuls.

184. A foreign consul has a right to claim, or libel, *in rem*, where the rights of property of his fellow subjects are in question, without any special authority from those for whose benefit he acts; but he cannot receive actual restitution of the thing in controversy without such special authority. *The Bello Corrunes*—6 *Wheaton*, 152, 168, 169.—1821.

Prize.

185. A citizen of the United States, cannot in the courts of the United States, claim as prize the property of a nation in amity with the United States, captured by him under a foreign commission. *id. ib.*

Courts.

Prize.

186. In case of an illegal capture in violation of the neutrality of this country, the property of the lawful owners, cannot be forfeited for a breach of our revenue laws by the captors, or persons who have rescued the property from their possession. *Id. ib.*

Neutral rights.

Treaty with
Spain.

187. By the 2d section of the 14th article of the treaty with Spain, citizens of the United States, who take commissions from any prince or state with which Spain is at war, to cruize against Spain, are to be punished as pirates, and cannot support, in the courts of the United States, any claim for prizes made under such commissions. *Id.* 171.

Prize.

Treaty with
Spain.

Spanish colonies.

New states.

188. Under the 14th article of the Spanish treaty, the new Spanish South American States are to be considered as "*states at war*" with Spain; and the neutrality act of June, 1797, c. 1, extends the same prohibition, with all its consequences, to a colony revolting and making war against its parent country. *Id. ib.*

Prize.

Neutral rights.

189. The property of a friendly nation captured by a vessel built, armed, equipped, and owned in the United States, will, if brought within our territorial limits, be restored to the original owners. *La Conception*—6 *Wheaton*, 235-238. 1821

190. In 1821 the Government of the United States had not acknowledged any Mexican Republic or State at war with Spain, nor could the Supreme Court of the United States recognize the existence of any court of admiralty sitting at Galveztown with authority to adjudicate upon captures. *The Nueva Anna and Liebre*—6 Wheaton, 193. 1821. Mexican republic. Courts.
191. As to the powers of consuls—see 6 Wheaton, 156, note (a) to the case of the *Bello Corrunes*. and the Appendix, note V. p. 3. Consuls.
192. As to the form and effect of passports to neutral vessels—see 6 Wheaton, Appendix, note II. p. 12. Passports.
- For the Convention of 1801. between Russia and Great Britain—see 6 Wheaton, Appendix, note IV. p. 52. Treaty between Russia and Great Britain.
193. British subjects born before the revolution are equally incapable with those born after, of inheriting, or transmitting the inheritance of lands in this country. *Blight's Lessee v. Rochester*—7 Wheaton, 535. 1822. Aliens.
194. The treaties of 1783 and 1794 only provide for titles existing at the time those treaties were made, and not to titles subsequently acquired. *Id.* 544. Treaty with Great Britain.
- Actual possession is not necessary to give the party the benefit of the treaty; but the existence of title at the time is necessary. *Id.* 545. Aliens.
195. The British treaty of 1794 did not enable the next of kin of a British subject who acquired land in Kentucky after the treaty of 1783, and who died seized before that of 1794, to take that land by descent, although the next of kin were citizens of the United States. *Id.* 546. Treaty with Great Britain. Aliens.
196. The commission is conclusive proof of the national character of a public ship. *The Santissima Trinidad*—7, Wheaton. 283-335. 1822. Prize.
197. During the existence of the civil war between Spain and her colonies, and previous to the acknowledgment of the independence of the latter by the United States, the colonies were deemed by us belligerent nations, and entitled to all the sovereign rights of war against their enemy. *Id.* 337. Spanish colonies.
198. Our municipal laws do not prohibit the trade in contraband articles. It is merely subject, by the law of nations, to the penalty of confiscation in case of capture. *Id.* 340. Contraband.
199. In cases of capture, supposed to be in violation of our neutrality, where the enlistment of men in our territory is proved, the *onus probandi* is thrown upon the claimant to prove that such enlistment was lawful, as being of the subjects of the state under whose flag the capture was made. *Id.* 340. Neutral rights.

- Treaty with Spain. 200. The 6th article of the Spanish treaty of 1795, only provides for the restitution of Spanish ships captured *within our jurisdiction?* *Id.* 346.
- Expatriation. 201. *Quere*, As to the right of expatriation. *Id.* 347.
 Supposing such a right to exist, it cannot be exercised without a *bona fide* change of domicile, and can never be asserted as a cover for fraud, or to justify a crime against the country, or any violation of its laws. *Il.* 348.
- Prize. 202. An augmentation of force, or illegal outfit within the neutral territory, only affects captures made during the cruise for which such augmentation, or outfit, was made. *Id. ib.*
- Neutral rights. 203. Captures made by public ships, as well as by privateers if made in violation of our neutrality, are subject to restitution. *Id.* 350.
- id. 204. A condemnation as prize in the court of the captor's country, will not *oust* the jurisdiction of the neutral tribunal which has custody of the *res capta*, before its condemnation in the court of the captor. *Id.* 355.
- id. 205. Prizes made by armed vessels which have violated the statutes for preserving the neutrality of the United States, will be restored if brought into our ports; but the Court has never decided that the offence adheres to the vessel under *all* circumstances; nor that it cannot be deposited at the termination of the cruise in preparing for which it was committed. But if this termination be merely colorable, and the vessel were originally equipped with the intention of being employed on the cruise during which the capture was made, the *delictum* is not purged. *The Gran Para—7 Wheaton*, 471-486. 1822.
- id. 206. The Court will restore to the former owners property captured in violation of the neutrality of the United States, where it is claimed by the original wrong-doer, although it may have come back to his possession after a regular condemnation as prize. *The Arrogante Barcelones—7 Wheaton*, 496. 1822.
- Treaty with Spain. 207. The 4th article of the Spanish treaty of 1795, which prohibits the citizens or subjects of the respective contracting parties from taking commissions from the enemy of the other, is confined to private armed vessels, and does not extend to public ships. *The Santissima Trinidad*, 7 *Wheaton*, 234, 1822.
- Prize. 208. The exemption of foreign public ships coming into our waters under an express or implied license from the local jurisdiction, does not extend to their prize ships or goods captured in violation of our neutrality. *Id. ib.*
- Neutral rights.

209 The capacity of private individuals (British subjects,) Alien.
 or of corporations, created by the Crown in this country, or
 in Great Britain, to hold lands or other property in this coun-
 try, was not affected by the revolution.

The proper courts in this country will interfere to prevent Courts.
 an abuse of the trusts confided to British corporations holding
 lands here to charitable uses, and will aid in enforcing the
 due execution of the trusts; but neither those courts, nor the
 local legislatures where the lands lie, can adjudge a forfeiture Prize.
 of the franchises of the foreign corporation, or of its property.

The lands of British corporations in this country are pro- Treaty with
 tected by the 6th article of the treaty of peace of 1783, in the Great Britain.
 same manner as those of natural persons; and their title thus Alien.
 protected is confirmed by the 9th article of the treaty of 1794,
 so that it could not be forfeited by any intermediate legisla-
 tive act, or other proceeding, for the defect of alienage.

The termination of a treaty, by war, does not divest rights Treaty.
 of property already vested under it; nor do treaties in general
 become extinguished, *ipso facto*, by war between the two go-
 vernments. Those stipulating for a permanent arrangement
 of territorial and other national rights, are, at most, suspend-
 ed during the war, and revive at the peace, unless they are
 waived by the parties, or new and repugnant stipulations are
 made. *The Society for the propagation of the Gospel, &c. v.*
The Town of New Haven, et al.—8 *Wheaton*. 464—1823.

210. DISCOVERY is the original foundation of titles to land Discovery.
 in America, as between the different European nations, by Conquest.
 whom conquests and settlements were there made; and gave
 to the nation making the discovery the sole right of acquiring
 the soil from the natives: and establishing settlements upon Indian title.
 it. It was a right with which no Europeans could interfere. Origin of lan-
 It was a right which all asserted for themselves, and to the titles.
 assertion of which, by others, all assented. The relations which
 were to exist between the discoverer and the natives, were to
 be regulated by themselves.

While the different nations of Europe, respected *the rights*
of the natives as occupants, they asserted the *ultimate domin-*
ion to be in themselves; and claimed, and exercised as a con-
 sequence of this ultimate dominion, a power to grant the soil,
 while yet in possession of the natives. These grants have
 been understood by all to convey a title to the grantees, sub-
 ject only to the Indian *right of occupancy*. *Johnson v. McIn-*
tosh—8 *Wheaton*, 573-574. 1823.

290 POINTS OR PRINCIPLES DECIDED IN U. S. COURTS,

Treaty with
Great Britain.

211. It has never been doubted, that either the United States or the *several* states, had a clear title to all the lands, within the boundary lines described, in the treaty (of peace of 1783,) subject only to the Indian right of occupancy: and that the exclusive power to extinguish that right was vested in that government which might constitutionally exercise it. *Id.* 385.

Indian title.

The several states have, generally, ceded those lands to the United States. They were occupied by numerous, warlike, and independent tribes of Indians, but the exclusive right of the United States, to extinguish their title, and to grant the soil, has never been doubted: and any attempt of others to intrude into that country, would be considered as an aggression which would justify war.

Discovery.

212. The United States maintain, as all others have maintained, that discovery gave an exclusive right to extinguish the Indian title of occupancy, either by purchase or by conquest; and gave also a right to such a degree of sovereignty, as the circumstances of the people would allow them to exercise.—*Id.* 587.

Conquest.

213. Conquest gives a title, which the courts of the conqueror cannot deny. *Id.* 588.

Indian title.

214. The Indian title is not inconsistent with a seisin in fee by a sovereign State. *Id.* 592.

A grant of lands by the Indians to an individual, conveys only the Indian title. The grantee holds under their laws, and incorporates himself with the Indian nation, so far as respects the property purchased. The courts of the United States cannot interpose for the protection of his title. *Id.* 593.

By the King's proclamation in 1763, the crown reserved under its own dominion and protection, for the use of the Indians, "all the lands and territories lying to the westward of the sources of the rivers which fall into the sea, from the west and northwest," and forbade all British subjects from making any purchases or settlements whatever, or taking possession of the reserved lands. *Id.* 594.

In Virginia the complete title of the crown to vacant lands was always acknowledged; and so far as respected the authority of the crown, no distinction was taken between vacant lands and lands occupied by the Indians. *Id.* 596.

A title to lands under grants, to private individuals, made by Indian tribes or nations northwest of the river Ohio, in 1773 and 1775, cannot be recognised by the courts of the United States. *Id.* 543.

215. Whether a regular sentence of condemnation in a court of the captor, or his ally, the captured property having been carried *infra præsidia*, will preclude the courts of this country from restoring it to the original owners, where the capture was made in violation of our law, treaties and neutral obligations; yet whoever claims under such a condemnation must show that he is a *bonæ fidei* purchaser, for a valuable consideration, unaffected by any participation in the violation of our neutrality by the captors. *La Nereyda*—8 *Wheaton*, 108, 174—1823. Prize.
Neutral rights.

216. When the boundary between two nations runs through the middle of a river, the waters of the whole river must, upon the general principles of the law of nations, be considered as common to both nations, for all purposes of navigation as a common highway, necessary for the advantageous use of its own territorial rights and possessions. *The Appollon*—9 *Wheaton*, 369. 1824. Boundary.
River.

217. The municipal laws of a nation do not extend, in their operation, beyond its own territory, except as regards its own citizens; nor can a seizure for a breach of the municipal laws of one nation be lawfully made within the territory of another. *Id.* 370. Municipal laws.

It seems, that the rights of visitation and search for enforcing the revenue laws of a nation may be exercised beyond the territorial jurisdiction upon the high seas on the vessels of such nation and on foreign vessels bound to its ports. *Id.* 371. Right of search

218. Under the 9th article of the British treaty of 1794, it is not necessary for the Alien to show that he was in the actual possession or seisin of the land at the date of the treaty, which applies to the title, whatever that may be, and give it the same legal validity as if the parties were citizens. *Hughes v. Edwards*—9 *Wheaton*, 489-496. 1824. Treaty with G. Britain.
Alien.

The title of an alien mortgagee is protected by the treaty. But independent of the stipulations of the treaty he has a right to come into a court of equity and have the property sold to raise the money due on the mortgage. This demand is merely personal, the debt being considered as the principal, and the land as an incident. *Id.* 97. Power of Congress to regulate commerce.

The power of Congress to regulate commerce, extends to the regulation of navigation and to every species of commercial intercourse between the United States and foreign nations, and among the several states. It does not stop at the external boundary of a state. It has no limitations, but such as are prescribed in the Constitution itself. So far as it extends it

is exclusive, and no part of it can be exercised by a state. It extends to navigation carried on in vessels exclusively employed in transporting passengers; and to vessels propelled by steam as well as to those navigated by means of wind and sails. *Gibbons v. Ogden*—9 *Wheaton*, 1. 186. 1824.

Alien.

220. The statute of 11 and 12, W. III. c. 6, which is in force in Maryland, removes the common law disability of claiming title through an *alien ancestor*; but does not apply to a *living alien ancestor*, so as to create a title by heirship where none would exist by the common law, if the ancestor were a natural-born subject or citizen. Thus the children of the person who would have been heir if he had not been an alien, were citizens of the United States and would, by virtue of the statute of 11 and 12 W. III. c. 6, have taken the estate by descent if their father had died before the intestate; but he being living, and being an alien at the time of the death of the intestate, could not take the land by descent nor could his children claim through him. *McCreery's lessee v. Somervill*—9 *Wheaton*, 354. 1824.

Slave trade.

221. The African slave trade is contrary to the law of nature, but is not prohibited by the positive law of nations. *The Antelope*—10 *Wheaton*, 66-114. 1825.

Right of search.

222. The right of visitation and search does not exist in time of peace. A vessel engaged in the slave trade, contrary to the laws of the country to which it belongs, cannot, for that cause alone, be seized on the high seas and brought in for adjudication, in time of peace, in the courts of another country. But if the laws of that other country be violated, or the proceeding be authorised by treaty, the act of capture is not unlawful. *Id. Ib*

Prize.

223. Although a consul may claim for subjects *unknown* of his nation, yet restitution cannot be decreed without specific proof of the individual proprietary interest. *Id. ib.*

Consul.

Treaty with France.

Alien.

224. The treaty of 1778, between France and the United States, allowed the citizens of either country to hold lands in the other; and the title once vested in a French subject to hold lands in the United States, was not divested by the abrogation of that treaty, and the expiration of the subsequent convention of 1800. *Carneal v. Banks* 10 *Wheaton*, 181. 1825.

Prize.

225. Seizures made *jure belli*, by non-commissioned captors, are made for the government, and no title of prize can be derived but from the prize acts. *The Dos Hermanos*—10 *Wheaton*, 306-310 1825.

226. A non-commissioned captor can only proceed in the prize-court as for salvage, the amount of which is discretionary. *Id. ib.* Prize. Salvage.

227. An attack made upon a vessel of the United States, by an armed vessel, with avowed intention of repelling the approach of the former, or of crippling or destroying her, upon a mistaken supposition that she was a piratical cruiser, and without a piratical or felonious intent, or for the purpose of wanton plunder, or malicious destruction of property, is not a *piratical aggression* under the act of Congress of 3d March, 1819. c. 75 *The Marianna Flora*—11 *Wheaton*, 39. 1826. Piracy. Marine trespass.

Nor is an armed vessel, captured under such circumstances, liable to confiscation, as for a hostile aggression under the general law of nations *Id.* 40. Law of nations.

228 The act of 3d March, 1819. c. 75, extends to foreign vessels committing a piratical aggression, and whatever responsibility the United States may incur towards foreign states by executing its provisions, the tribunals of the United States are bound to carry them into effect. *Id.* 39. Piracy.

Pirates may be lawfully captured by the public or private ships of any nation, in peace or in war; for they are *hostes humani generis*. *Id.* 40.

American ships offending against our own laws may be seized upon the ocean; and *foreign ships thus* offending within our territorial jurisdiction, may be pursued and seized upon the ocean, and brought into our ports for adjudication. *Id.* 42. Municipal seizure.

But in such cases the party seizes at his peril, and is liable to costs and damages if he fail to establish the forfeiture. *Id. ib.*

229. Ships of war sailing under the authority of their government, in time of peace, have a right to approach other vessels at sea for the purpose of ascertaining their real character, so far as the same can be done without the exercise of the right of visitation and search, which does not exist in time of peace. *Id.* 43. Right of search.

No vessel is bound to await the approach of vessels under such circumstances; but such vessel cannot lawfully prevent their approach by the use of force, upon the mere suspicion of danger. *Id.* 40.

The captor, under such circumstances of mutual mistake, and being a public ship of war, is not liable for damages or costs. *Id.* 50.

230. An alien may *take* real property by grant, whether from the state or an individual; and may *hold* the same until his title is divested by an inquest of office, or some equivalent Alien.

Foreign
ministers.

proceeding. *Gouverneur's Heirs v. Robertson*—11 *Wheaton*, 332-351. 1826.

Courts.

231. An indictment under the act of Congress of 1790, c. 36, (IX.) §. 37, for infracting the law of nations by offering violence to the person of a foreign minister, is not a case "affecting ambassadors, other public ministers and consuls," within the 2d § of the 3d article of the Constitution of the United States, but is cognizable by the Circuit Courts of the United States. *The United States v. Ortega*—11 *Wheaton*, 467-482. (See, also, *Mr Wheaton's note to that case*, page 469.)

Piracy.

Courts.

232. In cases of seizure, in time of peace, for an alleged hostile or piratical aggression in time of peace, the country of the captors and of the captured have a concurrent jurisdiction; and when the *res capta* is brought into a port of the captor's country for adjudication, its courts may exercise jurisdiction. *The Marianna Flora*—11 *Wheaton*, 1-56. 1826.

Mistake of
national
character.

233. In order to exempt a captor from damages and costs, for a capture founded on mutual mistake of the national character of the conflicting vessels, it is not necessary that he should have affirmed his national flag with a gun. If such be the custom of France, Spain, Portugal, and other continental European powers, it is not that of England or the United States, nor is it binding upon them. *Id.* 48.

Flag.

Piracy.

234. A justly founded suspicion of piracy will excuse the captors from costs and damages.

Probable
cause.

Although probable cause will not excuse a seizure under a mere municipal statute, unless made a ground of justification by the statute itself, (see the *Appollon*—9 *Wheaton*, 372.) This principle does not extend to captures *jure belli*, nor to *marine torts* generally, nor to acts of Congress, authorising the exercise of belligerent rights to a limited extent, such as the piracy acts of 3d March, 1819, c. 75 and 15th May, 1820, c. 112. *The Palmyra*,—12 *Wheaton*, 16, 17. 1827.

Spanish grants.

235. Spanish grants made after the treaty of peace of 1783, between the United States and Great Britain, within the territory east of the river *Mississippi*, and north of a line drawn from that river, at the 31st degree of north latitude, east, to the middle of the river *Apalachicola*, have no intrinsic validity, and the holders must depend for their titles exclusively on the laws of the United States. *Henderson v. Poindexter's lessee*—21 *Wheaton*, 531. 1827.

Spanish
grants.

236. No Spanish grant, made while the country was wrongfully occupied by Spain, can be valid, unless it was confirmed by the compact between the United States and the state of

Georgia of the 24th of April, 1802, or has been laid before the board of Commissioners, constituted by the act of Congress of the 3d of March, 1803, c. 340, or of March 27th, 1804, c. 414. *Id. ib.*

237. An alien can take land by purchase and hold it until office found. He can grant it, and his grantee can maintain an action to recover it, and may declare of his own seisin in fee. *Sheaffe v. O'Neil*,—1 *Mass. T. R.* 256. 1804. *Sup. Court of Massachusetts.* Alien.

238. To constitute a blockade, so as to effect a policy of insurance, by a violation of it, there must be an actual existing force before the port at the time it is entered. The *animus revertendi* of an obsidiary fleet does not continue the blockade, nor is the entry of a neutral, after being warned, a breach of his neutrality, if blockading force be not before the port. *Williams v. Smith*—2 *Caines N. Y. T. Rep.* 1. *Sup. Court of N. York.* 1804. Blockade. Neutral rights.

239. A cargo belonging to enemies found afloat in our ports at the breaking out of the war, is confiscable *jure belli* without any special act of Congress authorizing the seizure; and belongs to the United States, unless granted by them to other persons. *Cargo of the Emulous*—*Brown claimant*, 1 *Garrison*, 563. *Circuit Court U. S.* 1813. Prize.

240. No subject can legally commit hostilities where the sovereign has either directly or constructively prohibited such acts. *Id. ib.* War.

241. An alien enemy cannot sustain a claim in a prize court, nor can a purchaser from an enemy. *Id. id.* Alien.

242. Upon a declaration of war, the President has an authority, as incident to his office, to authorize the capture of enemy property, wherever, by the law of nations, it is liable to capture. *Id. ib.* President of the U. States.

243. A trade exclusively confined to the subjects of one country is purely national, and must follow the situation of that country, as to peace or war, and be deemed hostile or neutral accordingly; and, it is immaterial whether the shipment be made in time of peace or war. Prize. Enemy trade.

In time of war, property cannot change its character *in transitu*. *Id. ib.* Transfer in transitu.

244. Captors of neutral property in an enemy's ship are not, in general, entitled to freight, unless the goods are carried to their port of destination, within the intent of the contracting parties. *Id. ib.* Prize. Freight.

Prize. 245 The captors are not liable to damages where there is
 Probable cause probable cause; such as sailing from the port of an enemy
 without license. &c. *The Liverpool Packet*—1 Gallison, 513,
Circuit Court, U. S. 1813.

Prize. 246. It has not been the modern usage to extend the right
 Confiscation. of confiscation to enemy's property found in the country at
 the beginning of the war. *The Ann Green*—1 Gallison, 292,
C. Court. U. S. 1813.

Confiscation. 247. By the law of nations, the debts, credits, and cor-
 poreal property of the enemy found in the country at the
 breaking out of the war, are confiscable. *The cargo of the*
Emulous—1 Gallison, 563, *C. Court, U. S.* 1813.

Lex loci. 248. The law of the place where a contract is made, is to
 govern as to the validity, nature, and construction of the con-
 tract: but the remedy on such contract is to be pursued accord-
 ing to the law of the place where the suit is brought. *Van*
Reimsdyk v. Kane & al—1 Gal. 371, *C. Court, U. S.* 1813.

But where the contract is to be executed in a place differ-
 ent from that in which it is made, the law of the place of ex-
 ecution will apply. *Id. ib.*

Lex loci. 249. A state, by virtue of its general authority, may act
 upon contracts made between its own citizens in every coun-
 try; but not as to contracts between its own citizens and
 foreigners made in foreign countries. *Id.* 377.

Effect of war 250. By the general law, a state of war puts an end to all
 upon contracts. executory contracts between the citizens of the different coun-
 tries. Whatever then remains *in fieri* is either suspended or
 dissolved, *flagrante bello*. *The Frances*—1 Gal. 448, *Circuit*
Court. 1813.

Territorial ju- 251. Every nation has exclusive jurisdiction over the wa-
 risdiction. ters adjacent to its shores, to the distance of a cannon shot,
 or marine league. *Brig Ann*—1 Gal. 62, *Circuit Court U.*
States. 1813

War. 252. On a declaration of war, the citizens are not bound
 to return from foreign countries, unless so ordered by the go-
 vernment. *The Joseph*—1 Gallison, 545, *Circuit Court U.*
States. 1813.

Piracy. 253. To constitute the offence of piracy within the act of
 1790, c. 9, by piratically and feloniously running away with
 a vessel, personal force and violence is not necessary; but it
 must be *animo furandi*. *United States v. Tully & al*—1 Gal.
 247, *Circuit Court, U. S.* 1813.

254. Under that act the term "*High seas*," means any waters on the sea coast, which are without the boundaries of low-water mark; although such waters may be in a *roadstead* or bay within the jurisdictional limits of a foreign government. *U. States v. Ross*—1 *Gallison*, 624, *Circuit Court, U. S.* 1813. Piracy. High seas.
255. The prize court has jurisdiction to decree restitution of a vessel recaptured from the enemy, and to award damages against the recaptors for embezzlement *The Dove and cargo*—1 *Gallison*, 585, *Circuit Court, U. S.* 1813. Prize. Courts.
256. A special order of the sovereign, though contrary to the law of nations, justifies the captors in all tribunals of prize. *Maisonairé v. Keating*—2 *Gallison*, 585, *C. Court, United States.* 1815. Prize.
257. A commission to capture the enemy's property extends to all neutral property seized in violating neutral duties. *Id.* 339. Prize. Neutral rights.
258. Provisions become contraband when destined to a port of naval equipment of an enemy, or for the supply of his army. *Id.* 335. Prize. Contraband.
259. A territory conquered by an enemy is not to be considered as incorporated into the dominions of that enemy, without a renunciation in a treaty of peace, or a long and permanent possession. Until such incorporation it is still entitled to the full benefit of the law of postliminy. *United States v. Hayward*—2 *Gallison*, 501, *C. Court, U. S.* 1815. Conquest. *Jus Postliminii.*
260. The trial of prizes, and of all incidents to the question of prize, and the awarding of damages for an illegal capture made by a lawfully commissioned cruiser, belong exclusively to the courts of the capturing powers. *The Invincible*—2 *Gallison*, 29, *Circuit Court, United States* 1814. Prize. Courts.
261. The tribunals of one sovereign cannot revise the acts done under the authority of another. *Id.* 44. Law of nations.
262. The admiralty courts of the United States will exercise jurisdiction *in rem.* to enforce a bottomry bond executed in a foreign country, between subjects of a foreign country when the ship is within the territory of the United States. *The Jerusalem*—2 *Gallison*, 191, *Circuit Court, U. S.* 1814. Bottomry.
263. The admiralty has exclusive jurisdiction of suits on *ransom bills*; but not of a suit upon a bill of exchange given as security for payment of a ransom bill. *Maisonairé v. Keating*—2 *Gallison*, 341, *Circuit Court, U. S.* 1815. Ransom.
264. The jurisdiction of the District courts of the United States as courts of admiralty, extends to all maritime con- Admiralty.

- Courts. tracts, and to all *torts* and injuries committed on the high seas, or within the ebb and flow of the tide. A policy of insurance is a maritime contract and therefore within the admiralty jurisdiction. *De Lovio v. Boit*—2 Gallison, 398, C. Court. United States. 1815.
- Prize. The courts of common law have a concurrent jurisdiction with the admiralty courts over maritime contracts. *Id. ib.* 265. Goods owned and shipped by an American citizen, (after a known war) from an enemy's port to a port of his colony, are subject to confiscation. *The Diana*—2 Gallison, 93, 98, Circuit Court, United States. 1815.
- Admiralty. 266. A wharfenger has a lien on a foreign ship for wharfage by the law of the admiralty; which lien will overreach a prior bottomry. *Ex parte Lewis*—2 Gallison, 483, Circuit Court, United States. 1815.
- Prize. 267. The treaty of 1810 between Great Britain and Portugal did not prevent British merchants resident in the *Brazils* from acquiring the neutral character of their domicile. *S. J. Indiano*—2 Gallison, 292, Circuit Court, United States. 1814.
- Domicil. Prize. 268. All goods found on board an enemy's ship are presumed to the property of the enemy, unless a *distinct* neutral character be *impressed upon and accompany them*. *The Flying Fish*—2 Gallison, 374, Circuit Court, United States. *S. P. The Avery*—2 Gallison, 337, Circuit Court, U. S. 1815.
- Prize. 269. Prize goods, brought in by ships of war of the United States are liable to the payment of duties, as to the moiety belonging to the officers and crew of the capturing ships; but no duties are payable upon the moiety belonging to the United States, the whole of that moiety belongs to the navy pension fund. *The Liverpool Hero*—2 Gallison, 184, Circuit Court, United States. 1814.
- Duties. Prize. 270. No suit can be sustained in a *neutral tribunal* against a lawfully commissioned cruizer which is brought within its jurisdiction to recover damages for a supposed illegal capture. *The Invincible*—2 Gallison, 29, Circuit Court, U. S. 1814.
- Neutral rights. License. 271. To make a vessel good prize for using an enemy's license, she must have been seized *in delicto*. So of breaches of blockade, &c. *The Saunders*—2 Gallison, 215, C. Court, United States. 1814.
- Prize. Duties. 272. As it respects duties, condemnation of prize goods relates to the time of importation. Duties accrue upon a voluntary importation only. If a neutral be captured, brought in and restored, no duties attach, unless the cargo were after-

wards voluntarily unladen and an election made by the neu- Neutral rights.
 tral to consider the United States, as the port of discharge.
Prince v. United States—2 *Gallison*, 208, 209, *C. Court United*
States. 1815

273. A ransom cannot lawfully be made at any distance of Prize.
 time after the capture, and by a new voyage undertaken for Ransom.
 that special purpose; but such voyage is such a trading with Enemy trade.
 the enemy as subjects the vessel to confiscation. *The Lord*
Wellington—2 *Gallison*, 104, *Circuit Court, U. States*. 1814.

274. Under the naturalization act of 14th of April, 1802, Alien.
 the registry of aliens required by the 2d sec. of the law, must Naturalization.
 have been made 5 years before the application for naturaliza-
 tion. *Anonymous*—1 *Peters' Rep.* 457, *C. Court, U. S.* 1817.

275. A person beneficially interested in a suit, if an alien Alien enemy.
 enemy, cannot support the suit in the name of his trustee
 who is not an alien, unless the contract arise out of a licensed
 trade. *Crawford v. The Wm. Penn*—1 *Peters' Rep.* 106, *C.*
Court, United States. 1815.

276. The President of the United States had authority, Alien enemy.
 under the act of Congress of the 6th of July 1798, respecting President of
 alien enemies to order their confinement in certain cases, and United States.
 to use the necessary means for that purpose.

The marshals of the several districts are the proper officers
 to execute the orders of the President under the alien act;
 and it is not necessary to call in the aid of the judicial au-
 thority on all occasions to enforce the orders of the President.
Lockington v. Smith—1 *Peters' Rep.* 466, *C Court, U. S.* 1817.

277. A bottomry bond given for the repairs of a vessel Cartel.
 which had been employed as a cartel, made in an enemy's Bottomry.
 port, may be enforced by the admiralty powers of the Dis-
 trict Court of the United States, although the hypothecation Alien enemy.
 was to an alien enemy *Crawford v. The Wm. Penn*—1 *Pe-*
ters' Rep. 466, *Circuit Court, United States* 1815.

278. A cartel is, *pro hac vice*, a neutral licensed vessel, and Cartel.
 all persons concerned in her navigation, upon the particular
 service in which both belligerents have employed her, are
 neutral in respect to both, and under the protection of both.
 All contracts made for equipping and fitting her for this ser-
 vice are to be considered as contracts made between friends,
 and consequently ought to be enforced in the tribunals of
 either belligerent, having jurisdiction of the subject. *Id.* 112.

279. It is in the Department of State, that a reference must Department of
 be made for the official acts of the President of the United State.

States, in relation to such public measures as are not immediately connected with the duties of some other department. *Lockington v Smith*—1 *Peters' Rep.* 466, *C. Court, U. S.* 1817.

But the President may direct some other department to make known such measures as he may establish. *Id. ib.*

Prize.
Admiralty.
Courts.

280. The question of prize or no prize exclusively belongs to the admiralty jurisdiction, and the sentence of a competent court of admiralty, condemning the property as prize, is conclusive. *Jenkins v. Putnam*—1 *Bay's Report*, 9, *Supreme Court, South Carolina* 1784.

Whatever is an incident springing out of a prize case, is as exclusively within the jurisdiction of the admiralty, as the original capture. *Sasportas v Jennings and Woodrop*—2 *Bay*, 463, 471. *Supreme Court, South Carolina.* 1795.

Prize.
Capture on land

281. Captures made on land by unauthorised individuals from an enemy, do not divest the property out of the original owner unless there has been a condemnation by some court of competent authority. *Turnbull v. Koss*—2 *Bay*, 19, 22, *Sup. Court, South Carolina.* 1785.

Treaty with
France.

282. Under the 25 art. of the French treaty of 6 Feb. 1778, it was not absolutely necessary in order to give a vessel of the United States the character of a free ship, so as to protect belligerent property on board of her, that she should have a sea-letter on board at the time of capture; but the want of such sea-letter excused the captor from payment of costs and damages. *Turno v. Preary*—*Bees, Rep.* 6, *District Court, United States.* 1794.

Sea-letter.

Prize.

283. To a libel in the admiralty no person can answer unless he be named in the libel; nor can a third person interpose a plea to the jurisdiction of the Court. *Teasdale v. Sloop Rambler & E. Ballard*—*Bee's Rep.* 9, *Dist. C. U. S.* 1794.

Practice.

Prize.
Courts.

284. The question of prize belongs exclusively to the courts of the captor's country. *Castello v. Bouteille*—*Bee's Rep.* 29, *District Court, United States.* 1794. *Sheaffe & Turner v. 70 hogsheads sugar*—*Bee* 163, *District Court, United S.* 1800.

Prize.

Neutral rights.

285. The courts of a neutral country have jurisdiction in cases of prize made in violation of its neutral rights, and brought within its territorial jurisdiction. *Janson v. Vrow Christina Magdalena*—*Bee's Rep.* 28. *Kelly v. Schooner Prosperity*—*Bee's Rep.* 38, *District Court, United States,* 1794. *British Consul v. Schooner Nancy*—*Bee's Reports,* 73, *Dist. Court. United States,* 1795. *Ellison v. Ship Bellona*—*Bee* 114. *Mo'die v. The Betty Cathcart*—*Bee's Report,* 299, *D. Court, United States,* 1795.

But by the treaty with France of 6 Feb, 1778, art. 17 and 22, the subjects of France had a right to equip and arm their vessels in our ports; to bring in their prizes and depart with them, without interference by our courts. *Stunnick v. Ship Friendship*—*Bee's Report* 40, *District Court United S.* 1794. *Salderondo v. Ship Nostra Signora del Camino*—*Bee* 43, 1784. Treaty with France.

286. The words "a marine league from the coasts on shores of the United States." in the act of Congress of the 5th of June, 1794, mean a league from the land, bordering on, and washed by the sea, extending to low water mark; and not a league from a shoal at a distance from the shore. *Soult v. L'Africaine*—*Bee's Rep.* 204, *District Court. U States*, 1804. Territorial jurisdiction.

287. *False papers* divest a neutral vessel of her national character. *Mann's executors v. Sacks*—*Bee's Rep.* 282 *Dist. Court, United States*, 1804. Prize. Neutral rights.

288 Foreign consuls are general agents for the subjects of their respective countries not otherwise represented. *Gernon v. Cochran*—*Bee's Reports* 210, *District Court, U. S.* 1804. Consul.

A master of a ship in a foreign port represents both owners and shippers, not having other agent on the spot. *Id. ib.*

289. A sale before condemnation becomes valid by the subsequent condemnation. *Dennis v Brig Lear*—*Bee's Rep.* 213, *District Court, United States*, 1805. *Young v Tavel*—*id.* 229, *S P. District Court, United States*, 1806. Prize.

290. The courts of admiralty in this country will not generally take cognizance of cases, between foreigners, if the cause of action do not arise within our jurisdiction. *Thompson v. Ship Nanny*—*Bee's Rep.* 224, *District Court, United States*, 1805. Admiralty. Alien.

291. Salvage is not due for the rescue of the property from the possession of a friendly power. *Waite v. Brig Antelope*—*Bee's Reports*, 233, *District Court, United States*, 1806. Salvage. Prize.

292. Belligerents have no right, unless by treaty, to sell their prize in a neutral country. The neutral government may grant permission, but ought not to do so unless all the powers at war can be put upon an equal footing. *The Consul of Spain v. the Consul of Great Britain*—*Bee's Reports*, 263, *District Court, United States*, 1806. Prize. Neutral rights.

293. The stipulations of a treaty are paramount to the provisions of the constitution of a particular state of the confederacy. *Gordon's lessee v. Kerr & al.*—1 *Washington, Circuit Court Reports*, 502. *Circuit Court United States*, 1806. Treaty.

Treaty with
G. Britain.

294. The treaty of peace between Great Britain and the United States, was in force from the 20th of January, 1783, that being the day on which terms of peace were "agreed upon between Great Britain and France; and his Britannic Majesty was ready to conclude such treaty accordingly."—*Hylton's lessee v. Brown*—1 *Washington, Circuit Court Reports*, 353 *Circuit Court United States*, 1806.

Law of nations.

295. A foreign secretary of legation is entitled to the protection of the law of nations, and cannot lawfully be arrested by the civil authorities of the United States, or of the respective states, even by the consent of the legation: but if committed under the authority of one of the states, he cannot be discharged upon *Habeas Corpus*, by a court or judge of the United States; it having been expressly provided in the 14th sec. of the judiciary act of 1789 "that such writs of *Habeas Corpus*, shall in no case, extend to prisoners in goal, unless "where they are in custody under, or by colour of the authority of the United States, or are committed for trial before "some court of the same or are necessary to be brought into "court to testify."

Secretary of
Legation.

Foreign minis-
ters.

The laws of the United States for the punishment of those who violated the privileges of a foreign minister, are as obligatory upon the state courts as upon those of the United States, and it is equally the duty of each to quash proceedings against any one having those privileges. The injured party may seek redress in either court against the aggressor, or he may prosecute under the 26th sec. of the act of 30th April 1790, ch. ix. But the circuit court of the United States cannot quash proceedings depending in a State Court. *Exparte Cabrera*—1 *Washington, Circuit Court Reports*, 232. *Circuit Court United States*, 1805.

Courts.

Prize.

296. Prize causes are always *in rem*, against the vessel and cargo, or one of them; or *quasi in rem*, against the proceeds, whatever they are. *Carson's Exors. v. Jennings*—1 *Washington, Circuit Court Rep.* 131. *Circuit Court U. S.* 1804.

Lex loci.

297. A law, of a foreign country, which protects the party to a contract from execution, will, in the courts of the United States protect the same individual from arrest upon the same contract. *Camfranque v. Burnell*—1 *Washington, Circuit Court Rep.* 340. *Circuit Court United States*, 1806.

The laws which in any manner affect a contract, whether in its construction, in the mode of discharging it, or which control the obligation which the contract imposes, are essentially incorporated in the contract. *Id. ib.*

A contract is governed by the law of the country where it was made, and may be enforced in foreign countries, according to their own form of proceeding; but in such a manner as to give effect to the contract according to the law which gave it validity. *Id. ib.*

298. The law of nations is part of the law of Pennsylvania. Law of nations
Wilcox v. Union Insurance Company—2 *Binney*, 581. *Superior Court Pennsylvania*, 1810.

299. A British *antenatus* is incapable of taking lands by descent in Pennsylvania. Aliens.
Jackson v. Burnes—3 *Binney*, 75.—
Supreme Court Pennsylvania, 1812.

300. The English doctrine that no man can divest himself of the allégiance under which he was born, is not compatible with the constitution of Pennsylvania, or of the other states. Alien.
Id. 85.

301. In order to give jurisdiction to the courts of the captors' country it is not necessary that the prize should be brought within its territorial jurisdiction. Prize.
Courts.

Seizure as prize and safe possession in a neutral port are sufficient. *Cheriot v. Faussat*—3 *Binney*, 220. *Superior Court Pennsylvania*, 1810.

302. A court of common law has no jurisdiction of a cause to recover property taken and condemned as prize for having violated the law of France, prohibiting trade with the revolted parts of *St Domingo*. Prize:
Id. ib. Courts.

303. A state court has no jurisdiction of suits or prosecutions against a foreign consul. Consul.
Mannhardt v. Soderstrom—1 *Binney*, 138. *Supreme Court Pennsylvania*, 1808. Courts.

304. Under the 12th article of the convention with France of the 14th of November, 1788, the courts of this country had not jurisdiction of suits between French subjects. Treaty with
Bertrudt v. Gautier—1 *Yeates*, 571. *Sup. Court Pennsylvania*, 1794. France.
Courts.

305. An alien defendant in an action of slander, brought in a state court, cannot remove it, under the 12th sec. of the judiciary act of 1789, to the circuit Court of the United States although he make affidavit that the matter in dispute exceeds 500 dollars exclusive of cost. Aliens.
Rush v. Cobbet—2 *Yeates* 276. Courts.
Superior Court Pennsylvania, 1798.

306. Belligerents cannot establish prize courts in a neutral country; nor can they make any sale of their prizes there, unless authorised by treaty. Prize.
Wheelwright v. Depeyster—1 *Johnson*, 471. *Sup. Court New-York*, 1806. Neutral rights.

307. The British treaty of 1794, confirmed the title of lands in New-York to British subjects then holding, and their heirs, Treaty with
G. Britain.

notwithstanding their alienage. *Jackson v. Wright*—4 Johnson 75. *Sup Court New-York*, 1809.

Alien. 308. The state courts have jurisdiction of actions for torts committed on board of a foreign vessel on the *high seas where both parties are foreigners*; for personal injuries are of a *transitory* nature and follow the person or *forum* of the defendant. *Gardner v. Thomas*—14 Johnson, 134. *Superior Court New-York*, 1817.

And though the injury is laid in the declaration to be *contra pacem*, &c. that is matter of form only and not traversable. *Id. ib.*

But it rests in the sound discretion of the court to exercise jurisdiction or not, according to the circumstances of the case. *Id. ib.*

Prize. 309. The state courts of common law have jurisdiction of marine trespasses, where there is no question of prize. It is not the place. but the nature of the case, which determines the the jurisdiction *Id. ib.*

Prize. 310. Trover will lie in a state court, by the original owner of an American vessel against the owner of a Carthaginian privateer, *illegally fitted out in the United States*, for a capture of the plaintiff's vessel as prize. *Hallett v. Novion*—14 Johnson, 273. *Superior Court N. Y.* 1817.

Courts. 311. The courts of the United States have no jurisdiction of causes between aliens. *Montalet v Murray*—4 Cranch, 47. *Superior Court United States*, 1808.

Alien. 312. The District Court, as a court of Admiralty and maritime jurisdiction, may entertain suits for all torts, damages and unlawful seizures at sea. 1, *Mason*, 96. *Burke v. Trevitt Circuit Court, Massachusetts*. 1816.

Admiralty. 313. The admiralty has jurisdiction *in personam*, as well as *in rem*. for pilotage earned in piloting ships to, from, and on the sea. *Id. p. 50*—*The Anne, Circuit Court, Mass.* 1818.

Admiralty. 314. Farther proof will be ordered where the captors have been guilty of irregularity in not bringing in the master of the captured vessel, or the papers. *Id. p. 14, London Packet*.—*Circuit Court Massachusetts*. 1815

Further proof 315. Captors are bound to good faith and ordinary diligence and are therefore liable for negligence.

Admiralty. Probable cause is a justification of capture; but such protection may be forfeited by subsequent misconduct or negligence.

Prize. It is not necessary that there should be *prima facie* evidence to condemn. It is sufficient if there be circumstances which warrant a reasonable suspicion of illegal conduct. *Id.* 24. *The George. Circuit Court Massachusetts*. 1815.

Probable cause.

316. Where the vessel has been captured on her voyage and condemned at an intermediate port, and a part of the cargo has been restored and sold at the same port, no freight is due for the cargo so restored. *Id.* 42—*Sampago v. Salter*. *Circuit Court, Massachusetts.* 1816. Admiralty. Prize. Freight.

317. The effect of capture upon mariner's wages, does not dissolve the contract, it only suspends it till acquittal or condemnation. *Id.* 45—*Emerson v. Howlands*. *Circuit Court, Massachusetts.* 1816. Admiralty. Captures. Mariners.

318. The cognizance of seizures upon the high seas belongs to any District Court of a district into which the property is brought. 1 *Mason*, 36—*The Abby*. *Circuit Court, Massachusetts.* 1818. Admiralty Jurisdiction. Seizure.

319. A Court of Equity has jurisdiction to decree an account and distribution according to the *lex domicilii* of the estate of a deceased person domiciled abroad, which has been collected under an administration granted here. But whether it will proceed to decree such account and distributions, or direct such assets to be remitted, to be distributed by a foreign tribunal, depends upon the circumstances of the case. *Id.* 381, *Harvey v. Richards*. *Circuit Court, Massachusetts.* 1818. *Lex Loc.* Foreign laws. Administration

320. Where property is shipped in an enemy's vessel, the presumption of it's being enemies' property, can only be repelled by strong and clear proofs of a neutral interest. *Id.* 14. *London Packet*. *Circuit Court, Massachusetts.* 1815. Admiralty. Enemy's vessels. Evidence.

321. A vessel lying on the sea, out side of the bar of a harbor of the United States, within 3 miles of the shore, is on the high seas. *Id.* 147. *United States, v. Smith*. *Circuit Court, Massachusetts.* 1826. Admiralty. High seas.

322. A right of seizure may exist on the high seas, independently of any right of search. 2 *Mason*, 409—*La Jeune Eugene*. *Circuit Court Massachusetts.* 1822. Admiralty. Seizure. Search.

323. The African slave trade, abstractly considered is in consistent with the law of nations: a claim founded upon it may be repelled in any court where it is asserted, unless the trade be legalized by the nation to which the claimant belongs. *Id. ib.* Slave trade. Law of nations.

324. A letter of marque, insured as such, has no right to cruize at large for prizes, but she may chase and capture hostile vessels coming in sight, in the course of her voyage, without its being a deviation. 2 *Mason*, 250—*Haven v. Hilland*. *Circuit Court, Massachusetts.* 1820. Admiralty. Letter of Marque. Prize.

Every vessel has a right of self defence against hostile attacks and the master has a large discretion on this subject— Self-defence.

He is not bound to attempt to escape in the first instance and only to repel an attack when made. He may lay to, or attack the enemy ship, or chase her, and if she capture the enemy she may man the prize, if her own crew be not thereby injuriously weakened. 2 *Mason*, 230. *Haven v. Holland*. C. C. *Massachusetts*, 1820.

Admiralty. Salvage. 325. Salvage paid to seamen, in cases of shipwreck is a charge on the property saved, and to be borne by the underwriters, if the ship is abandoned to them.

Mariners. The contract of the seamen is not dissolved by the shipwreck, but they are bound to labour to preserve the wreck of ship and cargo; and if they leave the ship without endeavoring to save them, they desert their duty and may forfeit wages antecedently due. *Id.* 319. *Two Catharines*. C. C. *Massachusetts*, 1821.

Admiralty. Torts. 326 The admiralty has jurisdiction of personal torts and wrongs committed on a passenger, on the high seas, by the master of the ship. It is immaterial whether such torts be by direct force, as trespasses, or consequential injuries. 3 *Mason*, 242 *Chamberlain v. Chandler* C. C. *Massachusetts*, 1823.

Admiralty. Neutrals. 327. The master of a captured neutral ship is bound to remain by the ship until condemnation, or a recovery is hopeless; and his wages after the capture and until condemnation, &c. are a charge to be paid by the owners, and ultimately to be borne as a general average, by all the parties in interest. *Id.* 161. *Willard v. Dorr*. C. C. *Massachusetts*, 1823.

Admiralty. Neutral Freight. Mariners. 328. If a neutral ship, after capture, is condemned and sold and after wards, on appeal, the sentence is reversed, and freight for the full voyage is allowed in damages, it seems the seamen are entitled to full wages for the voyage; at all events they are entitled to wages up to the time of condemnation if they remain by the ship so long. 3 *Mason*, 161. *Willard v. Dorr*. C. C. *Massachusetts*, 1823.

Aliens. Escheat. But the right to wages is not complete until the restitution. See 3 *Mason*, 91 — *Willard v. Dorr*. C. C. *Massachusetts*, 1822.

Inquest of office Evidence. 329. An inquest of office by the Attorney General for lands escheating to the Government by reason of alienage, is evidence of title in all cases; but is not conclusive evidence against any person, who was not tenant at the time of the inquest, or party, or privy thereto. Such person may prove that there are lawful heirs, not aliens, in esse. 4 *Mason*, 268— *Stokes v. Dawes* C. C. *Massachusetts*, 1826.

Admiralty High seas. 330. An offence committed in a bay, entirely landlocked and enclosed by reefs, is not committed on the high seas with-

in the purview of the act of Congress, 26th March, 1804. C.

40. *Id.* 307, *U. S. v. Robinson*. C. C. *Massachusetts*, 1826.

331. The constitution of the United States gives jurisdiction to the Courts of the United States, in cases where foreign states are parties; and the judicial act gives to the Circuit Court jurisdiction in all cases between aliens and citizens. *Washington*, C. C. *Reports*, 429. *The King of Spain v. Oliver* C. C. *Pennsylvania*, 1810. Jurisdiction. Foreign State Aliens.

332. The Court refused to enquire, upon motion, whether Ferdinand the VIIth King of Spain, could institute a suit, not having been acknowledged by the United States as King of Spain. *Id. ib.* Foreign States. Jurisdiction.

333. The sentence of a court of exclusive jurisdiction, operating directly on the thing itself, is conclusive between the same parties, upon the same matter coming in any manner before another court of co-ordinate jurisdiction, not only of the right which it establishes, but of the fact which is decided. — *Id.* p. 508—*Armroyd v. Williams*, C. C. *Penn.* 1811. Foreign sentence.

334. Whatever may be done by foreign tribunals, in reference to the established principles of the law of nations, relative to the conclusiveness of sentences of foreign prize courts, the courts of the United States will not, for the purposes of retaliation, depart from the fixed principles of the law of nations, which declares that they are conclusive. *Id. ib.* id. Law of nations.

335. Written statutes and edicts of foreign countries must be produced.—Common, or unwritten law may be proved by parol. *Seton v. Delaware Ins. Company*—2 *Washington C. Reports*, 175, S. P.—2 *Tyler's Rep.* 367. *Woodbridge v. Austin*. *Sup. Court Vermont*, 1803 S. P. 2 *Washington, C. Court Reports*, 1. *Robinson v. Clifford*, C. *Court Pennsylvania*, 1807. Foreign laws. Evidence.

336. The laws of a foreign country where a contract is made, will be regarded by the tribunals of another country as to the obligations of the contract, and as to its discharge. *Id.* p. 157. *Webster v. Massey*, C. C. *Pennsylvania*, 1808. *Green v. Sarmiento*—3 *Washington C. C. Reports* 17, S. P. 1811. Foreign laws. *Lex loci.*

337. A discharge of the person under a foreign insolvent law, leaves the contract still in force; and whether bail shall be demanded or not, must depend upon the laws of the country where the suit is brought. *Id. ib.* Foreign laws. *Lex loci.*

338. The property of a foreign minister, attached to his person or in his use is protected by the law of nations; to insult it is an attack on the minister himself, and upon his sovereign. It is an insult to both. Offences of this sort were intended to be covered by the 27th §. of the act of Congress to Foreign minister. Law of nations.

punish crimes. But to constitute this an offence against the law of nations the defendant must have known the property to belong to the minister; otherwise it is merely an offence against the municipal law. *Id.* 435. *U. S. v. Hand, C. C. Pennsylvania, 1810.*

Foreign minister. 339. If a foreign minister make the first assault, the defendant will be excused for the subsequent battery. 2 *Washington, C. C. Reports, 205—United States v. Liddle, C. Court Pennsylvania, 1808.* See *U. S. v. Ortega—4 Washington C. C. Reports, S. F. 537. C. C. Pennsylvania, 1825.*

Foreign records. Evidence. 340. A certificate of the Register of a foreign court of admiralty, is not evidence of the loss of a paper. *Id. p. 1 Robinson v. Clifford C. C. Pennsylvania, 1807.*

Foreign minister. Evidence. 341. The certificate of the Secretary of State is the best evidence of the diplomatic character of a foreign minister.—*Id.* 205, *U. S. v. Liddle, C. C. Pennsylvania, 1808.* See *U. S. v. Ortega—4 Washington, C. C. Rep. 535, C. C. Pennsylvania, 1825.*

Alien Enemy. 342. Contracts, made with an alien enemy, are lawful, if made in a trade carried on under license of the government, whether they arise directly or collaterally out of such licensed trade; or if the enemy, with whom the contract is made, be in the hostile country by license of the government; or if the contract be a ransom bond.

Trade with Enemy.

Contracts made by prisoners of war, in the enemy's country, for subsistence, are binding. 3 *Washington, C. C. Reports, 484—Crawford v. The Wm. Penn, C. C. New Jersey, 1819.*

Law of nations. Admiralty.

343. The law of nations does not prohibit the carrying enemy's goods in neutral vessels; but even allows freight, in case of condemnation of the goods.

Neutrals.

But if a neutral endeavours, by false appearances, to cover the property of a belligerent from the lawful seizure of his enemy, such conduct identifies the neutral with the belligerent whom he thus endeavors to protect; and is a fraud upon the neutrality of his own government, and upon the rights of the belligerent. *Id.* 117, *Schwartz v. Ins. Com. of North America, C. C. Pennsylvania, 1811.*

Neutrals.

Trade with enemy.

344. Whether a neutral, within the territory of one belligerent commits a crime against that belligerent, by an intercourse with the enemy, must depend on the nature of that intercourse. 3 *Washington, C. Court Reports, 381. Bas v. Steele, C. C. Penn. 1818.*

St. Domingo.

New states.

345. It is for the government of the United States to decide whether the Island of St. Domingo is independent or not; and until such a declaration is made, or France shall re-

linquish her claim, the courts of the United States must consider the ancient state of things as remaining unaltered; and the Sovereign power of France over the country as still existing.

The surrender of a town, to an invading enemy, does not divest its Sovereign of more country than that which has submitted to the conqueror. If the whole Island of St Domingo had been conquered by the British, and given up to the Blacks, the right of France would have revived: since the conqueror gains nothing but the temporary right of possession and government, until a pacification; and cannot in the meantime impair, by any transfer, the rights of the former Sovereign. *Id.* p. 101—*Clark v. United States, C Court, Penn.* 1811. Conquest.

346. The owners of a privateer who have given bond to the United States are not liable, beyond the penalty of their bond and the loss of their vessel, for piratical acts of the master and crew, not done in the execution of the business in which they were employed. *Id.* 262—*Dias v. Privateer Revenge, Circuit C. Pennsylvania.* 1814. Privateer's bond.

347. Carrying despatches to the enemy is cause of condemnation. The citizen thereby makes himself, *pro hac vice* an enemy, and his vessel enemies' property, and renders himself liable to prosecution as a traitor, or as guilty of a misdemeanor, according to the circumstances of the case. *3 Washington, Circuit Court Reports,* 1814. *The Tulip, C. C. Pennsylvania,* 1812. Intercourse with enemy.
Treason.

348. Going from the enemy's squadron to the shore, with intent peaceable to obtain provisions for the enemy, is not an act of treason; but to carry provisions towards the enemy, with intent to supply him is, though that intention should be defeated. id.

If the intention of the defendant were to procure provisions for the enemy, by uniting with him in hostilities against the United States, his progressing towards the shore would be an overt act of *adhering* to the enemy, though no other act was committed. *Id.* 234, *United States v. Pryor, C. C. Penn.* 1814.

349. A Sovereign state has a right to regulate by law, the manner in which the common goods are to be used; such as the common right of hunting and fishing, &c. *4 Washington, Circuit Court Reports,* 379—*Corfield v. Coryell, Circuit C. Pennsylvania,* 1823. Hunting.
Fishing.
Common right.

350. In the United States *material men* have a lien on foreign vessels furnished. Water-casks are materials, for which the person furnishing them may have a lien. Material-men.
Admiralty

310 POINTS OR PRINCIPLES DECIDED IN U. S. COURTS,

Foreign vessels By the *common law*, no such lien was given either upon a domestic or foreign vessel; but the *civil law* gave it upon both. *Id.* 453—*Zane v. Brig President, C. C. Penn.* 1824.

Law of nations. 351. Upon an indictment, under the 27 §. of the act of 1789, for punishment of certain crimes, for assault and battery on

Foreign minister. a foreign minister, it is immaterial whether the defendant knew that the person assaulted was a foreign minister. 4 *Washington C. C. Reports.* 537—*United States v. Ortega. C. C. Pennsylvania,* 1825—2 *Washington, C. C. Rep.* 209, 210—*United States v. Liddle. S. P., C. C. Penn* 1803.

Law of nations. 352. If the person committing an assault on a foreign minister, be ignorant of the character of the person assaulted, it is not an offence against the law of nations. 2 *Washington C. C. Reports,* 209, 210—*U. S. v. Liddle,* 1808.

Treaty. 353. A state law inconsistent with a subsequent treaty is void.

Alien. The alienage* of the Plaintiffs in Ejectment who were British subjects, is no bar to the recovery of lands held by their ancestor at the time of the treaty of 1794. 1 *Paine's Reports,* 55—*Fisher v. Harden C. C. New York,* 1812.

Treaty. 354. Under the 2d art. of the British Treaty of 1794, the precincts and jurisdiction of a post are not to be considered as extending 3 miles in every direction. by analogy to the jurisdiction of a country over its surrounding coasts; but they must be made out by proof.

The clause in that article which provides that settlers within such precincts shall be protected in the enjoyment of their property, as well as the 9th article, was intended to protect legal and equitable interests in land; and not trespassers and intruders without right. *Id.* 457—*Jackson v. Porter, C. C. New York,* 1825.

Foreign records. 355. The proceedings of a foreign court of vice admiralty, purporting to be under the seal of the court, and to be certified by the registrar, and accompanied by a certificate of the American Consul, under his seal of office, that he was such registrar, are not so authenticated as to entitle them to be read in evidence.

Admiralty. **Evidence.** **Consul.** The seal does not prove itself. Some proof *aliunde* is always required; either that it is the seal of the court, by a witness who knows the fact; or by proof of the hand writing of the judge or the clerk; or by an examined copy, compared with the original in the proper office; or some other evidence of a similar character. They do not alone, unaided by extrinsic evidence, carry with them such verity as to make them evidence in foreign courts.

The court can attach no credit to the consular certificate. The law of nations recognizes him only in commercial transactions; but not as clothed with any authority to authenticate judicial proceedings. 1 *Paine's Rep* 594—*Catlett v. Pacific Insurance Company C. C. New York*, 1826. 1 *Tyler's Rep.* 366—*Woodridge v. Austin, Supreme C. Vermont*, 1800, *contra*.

356. A citizen of the United States may lawfully, during war with a foreign country, draw a bill on one of its subjects. Such an act does not amount to trading with the enemy. *Id.* 156—*United States v. Barker, C. C. New York*, 1820.

357 The sentence of a court of admiralty, in questions of prize, binds all the world. One court of admiralty will sustain a libel to carry into effect the sentence of another.— 3 *Dallas*, 86—*Penhallow v. Doane. Supreme C. U. S* 1795

358 A belligerent vessel captured by a citizen of a neutral country, although under a commission from the enemy of the captured vessel, must be surrendered to the original owner. 3 *Dallas*, 133—*Talbot v. Janson, Supreme Court, U. S.* 1795.

359. Immediately on capture as prize, the captors acquire such a right as no neutral nation can question: neutrals are always bound to consider the existing state of things between the belligerents as right. 3 *Dallas*, 188. *McDonough v. The Mary Ford. Sup. Court United States*, 1796.

360. The right of seizing and bringing in a vessel for further examination, does not authorise or excuse any spoliation or damage done to the property. The captors proceed at their peril, and are liable for all consequent injury and loss. 3 *Dallas*, 333—*Del Col v. Arnold, Sup. Court United States*, 1796.

361. Questions of prize are only cognizable in the courts of the power making the capture; and therefore our Courts can hold no jurisdiction in a case of prize litigated between the subjects of two belligerent nations, although the capture was made within the territorial limits of the United States.— *Peter's Ad. Decisions* 12, *Ship William, District Court Pa.* 1793. *Ib.* 309—*The Fanny, District Court Penn.* 1793. 1 *Johns.* 471, *Wheelwright v. Depeyster, S. P.*

362. The property of a neutral is not divested by capture and sale by a belligerent, unless condemned as prize by a competent court. 1 *Johns.* 471. *Wheelwright v. Depeyster, Sup. Court N.Y.* 1806. *S. P.* 2 *Peters. Ad. Decisions*, 345—*District Court Pennsylvania.* 1804

363. The property of the original owner is not changed by capture without condemnation. 1 *Cr.* 32—*Talbot v. Seeman, Sup. Court U.* 1801.

War.
Trading with enemy.

Admiralty.

Foreign sentence.

Neutrals.

Admiralty.

Neutrals.

Admiralty.

Prize.

Admiralty.

Prize.

Admiralty.

Prize.

Neutrals.

Admiralty.

Prize.

Neutrals.

Admiralty.

Prize.

- Admiralty.
Prize. 364. Prize courts proceed *in rem*, and cannot adjudicate on a prize lying in a foreign port, or out of the jurisdiction of the captor or his ally. 1 *Johns*. 471. *Wheelwright v. Depyster*, *Sup. Court N. Y.* 1806.
- Admiralty.
Salvage.
Prize. 365. Salvage is demandable of right from vessels saved from pirates or from the enemy, but not on a recapture made by a neutral power: the act of retaking being a hostile act unjustified by the situation of the nation of the capturing vessel, in relation to the nation from whose possession such re-captured vessel was taken.
- Neutrals. The liberation of a clear neutral from the hands of an enemy gives no title to salvage to the re-capturing belligerent. But where the capturing power has habitually disregarded the law of nations, the re-capturing power is entitled to salvage. 1 *Cranch*. 1. *Talbot v. Sceman*, *Sup. Court U. S.* 1801.
- Admiralty.
Salvage. 366. There is no positive rule which governs the rate of salvage in case of wreck. The common usage of commercial nations, however, and especially of those whose subjects are interested in the particular case, must be regarded. 2 *Cranch*, 267, *Mason v. The Blaireau*, *Sup. Court U. S.* 1804.
- Admiralty.
Prize. 367. If the commander of a public vessel captures a vessel on the high seas, without probable cause, which vessel is afterwards taken from him by a superior force and condemned as enemy's property, the original captor is bound to make restitution in value to the owner, with damages and costs; and the owner is not bound to resort to the recaptors. 3 *Cranch*, 460, *Maley v. Shattuck*. *Sup. Court, U. S.* 1806.
- Admiralty.
Foreign sentence. 368. A sentence of condemnation in a foreign court of admiralty, of competent jurisdiction, cannot be called in question on account of fraud practised in obtaining it, but must remain in force until avoided in some regular mode in the country where it passed. 1 *Day's cases*, 142. *Stewart v. Warner*, *Sup. Court Errors. Conn.* 1803.
- Admiralty.
Foreign sentence. 369. The sentence of a foreign court of admiralty is not even *prima facie* evidence of any fact, if there appear in it enough to rebut such a presumption. 1 *Caine's cases in Error*. *Johnson v Ludlow* XXI. *N. Y.* 1801.
- id. 370. But unless something suspicious appear on the face of it, it is to be deemed *prima facie* correct. 2 *Caine's cases in Error*, 110. *Smith v. Williams*, *N. Y.* 1805
- Foreign sentence. 371. In an action on a policy of insurance, the sentence of a foreign court of admiralty is not conclusive on the character of the property. *Id.* 217. *Vandenheuvel v. United Ins. co.* *N. Y.* 1805.

372. A sentence of a foreign court of admiralty condemning a vessel as good and lawful prize without assigning any reason, is to be considered as proceeding upon the ground of its being enemy's property, and such a sentence is conclusive evidence of the breach of warranty by the assured. 1 *Johns. cases*, 341. *Goix v Low*, *Sup. court, N Y* 1800. 2 *Johns. ca.* 481. *S. C. Court of Errors, N. Y.* 1802, *contra* 2 *Johns. cases*, 481. *Johnston et. al. v. Ludlow, S. P. contra, in Court of Errors. New-York.* 1802

Admiralty.
Foreign sentence.

373. Every man is bound to know the laws of his own country, but not the laws of foreign countries.

Foreign laws.

Foreign laws can affect contracts made in this country only in two cases: 1st. Where the parties reside or trade in a foreign country. 2d. Where the contracts plainly referring to a foreign country for their execution, adopt and recognize the *lex loci*. 4 *Dallas*, 327. *Scaright v. Galbraith, C. C. U. S. Pennsylvania*, 1796.

374. Our courts will not sustain a suit on a contract between foreigners made in a foreign country, if, by the laws of that country no action would be had there. 4 *Dallas*, 419—*Confrump v. Bunel C. C. U. S Pennsylvania*, 1806.

Foreign contracts
Lex loci.

375. Contracts are to be construed according to the laws of the country in reference to which they are made, but the remedy on them is to be prosecuted according to the laws of the country in which the remedy is sought. 1 *Caine's Reports* 412. *Vash v. Tupper. Sup Court, N Y.* 1803.

Lex l. i.
Foreign laws.

376. Our courts do not take notice of the revenue laws of foreign countries. 1 *Johns. Reports*, 94—*Ludlow v. Van Rensselaer, Sup. Court, N. Y.* 1806.

Foreign laws.

377. The common law of a foreign country may be proved by respectable and intelligent witnesses; but foreign statutes cannot be proved by parol. *Id* 385—*Kenny v. Clarkson, Sup. Court, N. Y.* 1806.

id.

378. All rights to personal property are to be regulated by the laws of the country in which the Testator lived, but the suits for those rights must be governed by the laws of that country in which the tribunal is placed. 3 *Cranch*, 319—*Dixon v. Ramsay, Sup. Court, U S.* 1806. 2 *Mass T. R.* 84—*Pearsal v. Dwight, S P.* 1806. 3 *Mass. T. R.* 77—*Powers v. Lynch, S. P.* 1807.

Lex loci.

379. A seizure, beyond the limits of the territorial jurisdiction, for breach of a municipal regulation, is warranted by the law of nations. 6 *Cranch*, 281—*Hudson v. Guestier, S. Court U. S.* 1810. *Contra*—4 *Cranch*, 241—*Rose v. Himely.*

Law of nations.

314 POINTS OR PRINCIPLES DECIDED IN U. S. COURTS,

- Admiralty. 380. The owner of a privateer capturing neutral property is not liable to a decree of restitution, unless the property or its proceeds came to his hands; and the property, having been libelled in a prize court, is presumed to be in the custody of its officers, unless the contrary appear. 4 *Cranch*, 2—*Jennings v. Carson*, S. C. U. S. 1807.
- id.
Neutrals.
Blockade. 381. Neutral goods, bound to a blockaded port, are to be considered as contraband of war. 6 *Mass. T. R.* 102—*Richardson v. Maine Ins. Com. Sup. Court, Mass* 1809
- Admiralty.
Blockade.
Neutrals. 382. Notice, either actual or constructive, of the existence of a blockade, is requisite before a neutral can be deemed *in delicto*, or to have violated his neutral duty, by attempting to enter the port. 7 *Johns. Rep.* 38—*Radcliff v. United Insurance Company*. S. C. N. Y. 1810.
- Foreign laws.
Evidence. 383. Foreign laws and regulations respecting trade may be proved by parol, if they are not proved to be in writing as public edicts. 6 *Cranch*, 274—*Livingston v. Md. Ins. Com.* S. C. U. S. 1810.
- Admiralty
Foreign sen-
tence. 384. A sentence of a court of admiralty is sufficient evidence of a condemnation, without showing the previous proceedings, and a copy of the sentence under the seal of the court, signed by the actuary in the absence of the registrar, accompanied by the deposition of a witness proving the seal and signature, is a sufficient authentication. 7 *Johns. Rep.* 514—*Gardere v. The Columbia Ins. Company*, S. C. N. Y. 1811.
- Evidence.
Foreign law.
Bankrupt. 385. The Bankrupt law of a foreign country cannot transfer property in the United States. 5 *Crunch*, 289—*Harrison v. Sterry et. al. Sup. Court U S* 1809.
- Foreign laws.
Lex loci. 386. The *lex loci contractus* is to govern unless the parties, by the terms of the contract, had in view a different place. 8 *Johns. Reports*, 189—*Thompson v. Ketchum. Sup. Court, New-York*, 1811
- Admiralty.
Foreign sen-
tence. 387. If the sentence of a foreign court of admiralty, condemning a vessel for breach of blockade, state facts, which, by the law of nations, or by treaty subsisting between the countries, do not amount to a justifiable cause of condemnation, such sentence does not falsify a warranty of American property, and the parties may be let in to other evidence upon the subject. 4 *Cranch*, 185—*Fitzsimmons v. Newport Ins. Com.*—*Sup. Court U S.* 1808.
- id.
Jurisdiction. 388. The constitution of a foreign court, and whether it has not exceeded its jurisdiction, are questions examinable in the Courts of this country. 4 *Cranch*, 241—*Rose v. Himely.*—*Sup. Court U. S.* 1808.

389 The sentence of a foreign court of V. Admiralty, con- Admiralty.
demning a ship for breach of blockade, is conclusive evidence Foreign sen-
of the fact of breach of blockade. 6 *Mass. T. R.* 277—*Bax- tence.*
ter v. New England Marine Ins. Co. Supreme Court Mass. Evidence.
1810. 7 *Do.* 275—S. C. *Sup. Court Mass.* 1811. 4 *Day's*
cases. 179—*Brown v. The Union Ins. Co. at N. London S. P.*
2 *Johns. ca.* 127—*Vandenheuwel v. The United Ins. Co S. P.*
Sup. Court N. York, 1801. 2 *Johns cases* 451. S. C.—*S. P.*
contra. Court of Errors. N. York. 1802. 2 *Johns. cases,* 174
—*Laing v. The United Ins. Co S. P. accord. Sup. Court N.*
York, 1801. 2 *Johns. cases,* 487. S. C.—*S. P. contra. Court*
of Errors, N. York, 1802. 9 *Johns. Reports.* 277—*Radcliff*
v. The U. S. Ins. Co. S. P. accord. Sup. Court, N. York, 1812.

390. A British subject, naturalized and residing in the U. Naturalization.
States, cannot, by taking an oath of allegiance to the King of Aliens-
Spain, and exercising, in this country, the office of Spanish Spain.
Consul, become an alien, or a Spanish subject 2 *Johns. cases,*
407—*Fish v. Stoughton. Sup. Court, N. York,* 1801.

391. The 4th article of the treaty of peace between the Treaty.
U. States and Great Britain, overrules and annuls, *ab initio,* British treaty.
all laws of the U. States, or of the individual States, made to
sequester or confiscate debts due to British subjects, and re-
stores to the creditor the full rights of recovering his claim
against the American debtor; and it is the duty of the State
and federal Judges to pronounce all laws contrary to the treaty
null and void.

If a treaty be broken by one of the parties, it becomes, not
absolutely void, but voidable only at the option of the other
contracting party. 3 *Dallas,* 199—*Ware v. Hylton, Supreme*
Court, United States, 1796.

392. That an interest may be protected by the British Treaty.
Treaty, it must be an interest holden as a security for money British treaty.
at the time of a treaty, and the debt must still remain due.
5 *Crunch* 344—*Owens v. Norwood's lessee S. C. U. S.* 1809.

393. Under the treaty of 1794, with Great Britain, a Bri- Treaty.
tish subject could hold lands purchased prior to that time. British treaty.
6 *Mass. T. R.* 441—*Commonwealth v. Sheafe, Supreme C.*
Massachusetts, 1810.

394. Although there may be cases in which the court will Aliens.
exercise jurisdiction in disputes between foreigners, yet it Jurisdiction.
will generally remit them to their own domestic forum.—
Bee's Reports 217—*The Nanny, District C., S. C.* 1805.

395. Supplies to a foreign vessel in a neutral port will con- Admiralty.
stitute a lien on the vessel, and are recoverable in admiralty. Material-men.
Bee, 78—*The Eagle, District Court, S. C.,* 1796.

316 POINTS OR PRINCIPLES DECIDED IN U. S. COURTS,

- Admiralty.** 396. Where the contract for repairs was made on land, and the owners were represented on the spot by a consignee who had funds, the admiralty has not jurisdiction. *Bee*, 167, *Prichard v. The Horatia*, District Court, S. C., 1800.
- Material-men.**
- Admiralty.** 397. If the master borrow money for repairing damages to a vessel, done on the high sea, the admiralty has jurisdiction of a libel by the lender. *Bee*, 116—*The Rainbow*, District Court, South Carolina, 1798.
- War.** 398. A capture made on land by unauthorised individuals, from an enemy, does not divest the property from the original owner, without condemnation or distribution by some competent authority. 1 *Bay*, 20—*Turnbull v. Ross*, C. C. pleas, South Carolina, 1785.
- Capture on land**
- Admiralty.** 399. The master of a vessel can only hypothecate in a foreign port, where his owner has no personal credit, and the vessel is in such distress that the voyage cannot be completed without it. *Bee*, 120—*Tunno v. The Mary*, Dis. Court, S. C. 1798. 1. 131—*Boreal v. The Golden Rose*, Dis. C., S. C. 1798. *Id* 157—*Putnam v. The Polly*, Dis. C., S. C. 1800. *Id* 200—*Sloane v. Haley*, Dis. C., S. C. 1808.
- Hypothecation.**
- Admiralty.** 400. A captured vessel saved by a neutral is to be restored to the captor on payment of salvage. *Bee* 92—*Booth v. The Esperanza*, Dis. C., South Carolina, 1798.
- Salvage.**
- Prize.**
- Admiralty.** 401. False papers divest a neutral of all right to redress under treaties, or the law of nations. *Bee*, 202—*Mann v. Sacks*, Dis. C., South Carolina, 1804.
- Neutrals.**
- False papers.**
- War.** 402. A declaration of war puts a period to all commercial executory contracts subsisting at the time between the citizens of the belligerent nations. 1 *Nott & McCord*, 563—*McGrath v. Isaacs*, C. C., South Carolina, 1819.
- Trade with enemy**
- Treaty.** 403. Under the treaty of 1794 with Great Britain, a breach of blockade, to warrant a capture, must consist in a second attempt to enter the blockaded port after being duly warned—a declaration of the master, that he intended to enter the port if released, is not sufficient ground of capture. 2 *Bay*, 388—*Williamson v. Tunno*, C. C., S. C., 1802.
- British treaty.**
- Blockade.**
- Admiralty.** 404. The crew of a neutral vessel, unlawfully captured by a belligerent, may retake the vessel, and may recover damages out of goods put on board by the captors. *Bee*, 141—*British Consul v. Thompson*, District Court, S. C. 1799.
- Prize.**
- Neutrals.**
- Admiralty.** 405. Belligerents have no right to sell their prizes in a neutral port, unless privileged by treaty. But the neutral government may grant permission without violating neutrality;
- Prize.**
- Neutrals.**

if all the belligerents are in this respect put upon an equal footing. *Bee*, 263—*Consul of Spain v. Consul of G. Britain*, C. C., *South Carolina*.

406. The sale of a prize in a port not belonging to the captors, before condemnation, does not divest the property of the original owner. *Bee*, 300—*Rose v. Himely*, *District Court, South Carolina*, 1804. Admiralty. Prize.

407. Neutral courts have no jurisdiction of the question of prize as between the belligerents. *Bee*, 66—*Reid v The Vere*, *District Court South Carolina*. Admiralty. Prize. Neutrals.

408. The courts of admiralty in this country will maintain a suit for damages happening to a vessel in the hands of the captor, after a decree of restitution in a foreign court. *Bee*, 60—*McGrath v. Sloop Candalero*, *Dis. Court S Car.*, 1794. Admiralty. Prize.

409. Under the treaty with France, a French armed ship duly commissioned, but fitted out in an American port, might bring in and carry away her prizes, without being subject to the courts of this country. *Bee*, 40—*Stannick v. The Friendship*, *District Court, S. Car.*, 1794. *Id.* 69—*British Consul v. The Mermaid*, *Dis. Court, South Carolina*, 1795. Treaty. French treaty.

410. In such case the court can only interfere where the equipment of the privateer in the neutral port, contravenes the laws of neutrality. *Bee*, 40—*Salderondo v. The Nostra Signora*, *District Court, South Carolina*, 1794. Treaty. French treaty. Neutrals.

411. An augmentation of force in an American port, is a breach of neutrality, and of the law of nations, as well as of the laws of the United States; and a prize captured by such a vessel must be restored if brought within the jurisdiction of our courts. *Bee*, 73—*British Consul v. The Nancy*, *District Court, South Carolina*, 1795. Admiralty. Neutrals. Law of nations. Prize.

412. A condemnation of captured goods in a court of competent jurisdiction, is absolutely necessary before the property can be divested out of the original owner. 1 *Bay*, 470—*Sasportas v. Jennings*, *Court of Common Pleas, S. C.*, 1795. Admiralty. Prize.

413. A condemnation, in a French Court of Admiralty, of property lying in the ports of an ally, cannot be enquired into by the courts of this country. *Bee*, 163—*Sheaff v. Goods, &c.*, *District Court, South Carolina*, 1800. Admiralty. Prize. Neutrals.

414. A sentence of condemnation founded on a municipal regulation, not made until after the capture of the property on the high seas, is not final and conclusive, and the property may be restored to the original owners, if brought within the jurisdiction of the courts of their own country. *Bee*, 308—*Rose v. Himely*, *District court, South Carolina*, 1805. Admiralty. Prize.

318 POINTS OR PRINCIPLES DECIDED IN U. S. COURTS,

- Admiralty.
Foreign sentence.
Law of nations. 415 If a foreign court of admiralty condemn a vessel as *lawful prize*, or as the property of an enemy generally, without assigning any reasons, the law of nations will presume that they have gone upon proper grounds, and their sentence is conclusive on all the world. 2 *Bay*, 237—*Campbell v. Williamson*, C. C., *South Carolina*, 1800.
- Admiralty.
Foreign sentence.
Law of nations. 416. But where the ground of the sentence is uncertain, the truth may be examined, as where the vessel was libelled as *enemy's property*, and condemned for *breach of blockade*. 2 *Bay*, 363—*Blacklock v. Stewart*, C. C., *S. Car.*, 1802.
- Admiralty.
Foreign sentence.
Law of nations.
Evidence. 417. A sentence of condemnation is not conclusive if it do not state sufficient grounds. 2 *Bay*, 388 *Williamson v. Tunno*, *Circuit Court South Carolina*. 1802.
- Foreign sentence.
Evidence. 418. A condemnation as *prize* is not a condemnation as enemy's property, so as to conclude the assured. 1, *Nott and McCord* 541, in note—*Bailey v. South Carolina Insurance Company*, C. C. *South Carolina*. 1809.
- Foreign sentence.
Evidence. 419. In an action on a policy of insurance, a condemnation as enemy's property, by a foreign Court of admiralty is conclusive evidence of a breach of neutrality. 1, *Nott and McCord* 537, *Groning v. Union Insurance Company*, C. C. *South Carolina*. 1819.
- Aliens. 420. The title, of an alien friend, to lands in Maryland, is good against every body but the state, and can only be devested by office found, or by some act done by the state to take possession; and his chattels real v. s. in his representatives. 4, *Har. and McHenry*, 409—*M. Creery v. Alexander*, *Gen. Court Maryland*. 1799.
- Aliens. 421. In North Carolina, an alien cannot take lands by *devise*. 2 *Haywood*, 104—*University v.*— 2 *do.* 108—*Gilmour v. Kity*.
- Aliens. 422. In North Carolina, the title to lands purchased by an alien continues in him until office found. 2 *Haywood*, 37, *Doe v. Horniblea*.
- Aliens. 423. An alien cannot maintain ejectment; but if he is in possession of real property he may maintain trespass *quare clausum fregit*. 1 *Hayw*, 485—*Bayes v. Hogg*.
- Aliens. 424. A foreigner naturalized in a state before the adoption of the Federal Constitution, and who continued to reside there until that event, became thereby a citizen of the United States. 2 *Car. Law Repository*, 100—*Teare v. White*, *Sup. Court North Carolina*. 1815.
- Aliens. 425. Where a father has been a citizen of the United States his children are entitled to inherit lands in *South Carolina*,

though born out of the limits of the United States.—*Aliter of the child of a citizen mother by an alien father.* 1 *Nott and McCord*, 292—*Davis v. Hall* C. C. *South Carolina*. 1818.

426. By an act of South Carolina, of 1807, a grant of land to an alien is valid, provided he has declared his intention to become a citizen of the United States agreeably to the act of congress. 1 *Rep. Con. C.* 411—*Meeks v. Richbourg*. Aliens.

427. A subject of Great Britain, though born before the declaration of Independence, is an alien and incapable of holding lands in South Carolina, although he may take by purchase. 4 *Dess*. 350—*Clifton, v Haig, Court Chancery, South Carolina*. 1812. Aliens.

428. The husband of an alien female who had given notice of her intention to become a citizen and had taken the oath, but who died before she was duly naturalized, was held to be incapable of inheriting, through her, lands in South Carolina. 1 *McCord* 187—*McDaniel v. Richards*, C. C. *South Carolina* 1821. Aliens.

429. Aliens cannot take lands by descent in Kentucky. *Harling*, 61—*Hunt v. Warnicke*. 1806. Aliens.

430. A person deriving title to lands in Kentucky, in virtue of the act of 1800, under an alien claiming by descent, must show, on the trial, that such alien was 2 years in the country previous to the death of the ancestor. 1 *Litt.* 149—*Trustees of Louisville v. Gray*. 1822. Aliens.

431. After the ratification of the articles of confederation, an alien who became a citizen of any one of the United States became thereby a citizen of Virginia, so as to be able to hold lands. 3 *Litt.* 476—*Elmendorf v. Carnichael, Court Appeals, Kentucky*. 1823. Aliens.

432. A condemnation, by a court of admiralty of prizes, brought into the port of an ally, is valid. 15 *Johns. Rep.* 172—*Page v. Lenox, Sup. C. N. Y.* 1818. Admiralty. Prize.

433. No action can be maintained at common law for an illegal capture, on the high seas, as prize of war; and no irregularity or misconduct of the captor, in the subsequent disposition of the prize, can confer jurisdiction as to the original taking, or is, in itself, a ground of action at common law. 16 *Johns. Rep.* 327—*Novion v. Hallet. C. Errors, N. Y.* 1819. Prize.

434. An alien may take lands by devise in Massachusetts. The 9th article of the Treaty of 1794 with Great Britain, was not annulled by the war of 1812. That article applied, as well to vested remainders as to estates in possession. 12 *Mass.* 143—*Fox v. Southack, Sup. C. Mass.* 1815. Aliens. Treaty British.

- Aliens. 435. Alienage cannot be pleaded in *bar*: it must always be pleaded in abatement. 9 *Mass.* 363—*Lewall v. Lee, Sup. court, Mass.* 1812 *Id.* 377—*Martin v. Wood, Sup. court, Mass.* 1812. 12 *do.* 8—*Levine v. Taylor, Sup. court, Mass.* 1815.
- Treaty British. 436. The treaty of 1794, with Great Britain, does not prevent or cure the disability of a British subject as an Alien Enemy.
- Aliens. The plea of Alien Enemy is a temporary disability only which ceases with the war. The effect of the plea is only to suspend the process; and the plea is defective when it concludes either in bar or in abatement of the writ. The form is a prayer whether the Plaintiff should be further answered. 11 *Mass.* 119—*Hutchinson v. Brock, Sup. court, Mass.* 1814.
- Aliens. 437. Aliens resident in the United States, at the breaking out of a war, between their own country and the United States, or who come to reside in the United States, after the breaking out of such war, under an express or implied permission, may sue as in time of peace; and it is not necessary for that purpose, that such aliens should have letters of safe conduct, or actual license to remain in the United States; but a license and protection will be implied from their being suffered to remain without being ordered out of the United States by the Executive. 10 *Johns.* 69—*Clarke v. Morey, Sup. court, N. Y.* 1813.
- War.
- Aliens. 438. An officer of the British army who was detained in the State of New York as a prisoner of war until December 1776, when he returned to England and died in 1800, never became a citizen of New York, but remained a British subject, and by reason of his alienage could not take lands by descent in 1792. 20 *Johns.* 313—*Jackson v. White, Sup. court, N. Y.* 1822.
- Aliens. 439. The declaration of Independence did not operate so completely to disunite the United States from England, as to subject all British *antenati* to the disabilities of alienage. Their rights continued until the acknowledgement by Great Britain of our Independence. 2 *Hals.* 305—*Den. v. Brown, Sup. court, N. Jersey,* 1799.
- Aliens. 440. The 4th §. of the act of Congress of 1802, which provides that the children of citizens of the United States, born abroad, shall be citizens of the United States, applies to those only whose parents were citizens of a *state*, as such, after the Union had commenced, and not parents born in a *state*, when a colony, before the adoption of the constitution. 16 *Mass.* 230—*Manchester v. Boston, Sup. court, Mass.* 1819.

441. The whole personal estate of an alien enemy dying in New York during the war, goes exclusively to his next of kin resident in New York, to the exclusion of such as were then resident in the enemy's country. 13 *Johns*. 1 *Bradwell v. Weeks*, court of Errors, N York. 1815. 1 *Johns*. chancery Reports, 206 *Couth Carolina, contra*. 1814. Aliens.
442. When debt is brought on a foreign judgment rendered by default, the Court will go into the consideration of such judgment, and if it appear that it was surreptitiously obtained, they will not sustain it 1 *Tyler*, 237—*Waddams v Burnham* Superior Court. Vermont. 1801. Foreign judgments. Evidence.
443. When a foreign judgment is produced in the Courts of Massachusetts, if the court which rendered the judgment had jurisdiction, the regularity of its proceedings cannot be called in question. In an action of debt upon such judgment *nil debet* is the general issue. 9 *Massachusetts. Rep.* 462—*Bissel v. Briggs*, Superior Court, Massachusetts. 1813. Foreign sentence. Evidence. Freight Judgments.
444. In an action on a foreign judgment it is competent for the defendant to avoid it by showing that he was not within the jurisdiction of the foreign court. 8 *Massachusetts, Rep.* 273—*Buttrick v. Allen*, Supreme Court, Massachusetts. 1811. Foreign judgment. Evidence.
445. A decree of a foreign court of admiralty made without libel or trial, condemning a vessel and cargo for breach of blockade, is not conclusive of that fact. 12 *Massachusetts, Rep.* 291—*Sawyer v. Maine, F. and M. Insurance Company*, Supreme Court, Massachusetts. 1815. Foreign sentence. Evidence.
446. The sentence of a foreign Court of admiralty is conclusive only when it distinctly and specially states the cause of condemnation. 8. *Massachusetts, Rep.* 536—*Robinson v. Jones*, Supreme Court, Massachusetts. 1811. Foreign sentence. Evidence.
447. The cause of action for a balance due to a factor arises in the country in which the factor resides. 15 *Massachusetts, Rep.* 427—*Coolidge v. Poor*, Sup. Court, Mass. 1818. Aliens.
448. Contracts are to be construed by the *lex loci contractus* unless, it appears from their tenor that they were entered into with a view to the laws of another place. 3 *Conn. Rep.* 253—*Smith v. Mead*, Sup. Court Errors, Connecticut. 1820. *Lex loci*. Foreign laws.
449. Rights dependent upon nuptial contracts are to be determined by the *lex loci contractus*. 3 *Johns C. R.* 190—*Deconche v. Savetier*, Court of Chancery, N. Y. 1819. *Lex loci*.
450. It is the law and usage of nations, resting on the plainest principles of justice and public utility, to deliver up offenders charged with felony and other high crimes, and fleeing

Aliens.
Fugitives from
justice.
British
Treaty.

from the country in which the crime was committed, into a foreign and friendly jurisdiction. When a case of that kind occurs it is the duty of the civil magistrate, on due proof of the fact, to commit the fugitive, to the end that a reasonable time may be afforded for the Government here to deliver him up, or for the foreign Government to make the requisite application to the proper authorities here, for his surrender. Who are the proper authorities in this case, whether it be the executive of the state, or, as the rule is international, the executive authority of the United States, the only regular organ of communication with foreign powers, it is not now the occasion to discuss, it is sufficient to observe, that if no application be made, and duly recognized within a reasonable time, the prisoner will then be entitled to his discharge upon *Habeas corpus*: whether such offender be the subject of the foreign government, or a citizen of this country would make no difference in the application of the principle.

The 27th article of the treaty of 1795, with Great Britain, which provided for the delivery of criminals, charged with murder or forgery, was only declaratory of the law of nations, and is equally obligatory upon the two nations, under the sanction of public law, since the expiration of that treaty, as they were before. 4 *Johns C. R.* 108—*Washburne's case. Chancellor of New York*, 1819.

Treaty.
British treaty.
Fugitives from
justice.

451. The United States will deliver up to Great Britain, offenders charged with murder or forgery, agreeably to the 27th article of the treaty of 1795. *Bee*, 266—*U. S. v. Nash alias Robbins. District Court, S. C.* 1799.

War.
Enemy.
Trade with
enemy.

452. One who knowingly aids another in a trade with a public enemy in time of war, cannot recover compensation for his services. *Alams' Reports*. 184—*Beach v. Kerzar. Sup. Court of Judicature, N. Hampshire*, 1818.

War.
Trade with
Enemy.

453. During a war all communication and intercourse between citizens of the United States and the subjects of the enemy are illegal without the express permission of the Government, and no promise can arise by implication of law from such intercourse. 16 *Johns.* 438—*Griswold v. Waddington, court of Errors, New York*, 1819.

Admiralty.
Trade with
enemy.

454. A citizen of one belligerent may lawfully withdraw his property from the country of the other belligerent, provided he does it in a reasonable time after the declaration of war, and does not himself go to the enemy's country for the purpose. 15 *Johns.* 24—*Amory v. McGregor. Supreme Court, New York*, 1821.

455. A contract for the delivery of goods within the United States to a subject of the enemy's country, partly executed before the war, may be lawfully completed during the war, by delivery to the agent of the purchaser. 19 *Johns.* 137—*Bushannan v. Curry.* *Sup. court, New-York.* 1821. Trade with enemy.

456. A bill of exchange drawn in New-York upon a person in England, during war with that country, for supplies furnished to a British vessel authorized by act of Congress to sail for a port of the enemy, may legally be remitted to England for collection. 15 *Johns.* 338—*Suckley v. Furse.* *Sup. court New-York,* 1818. id.

457. A contract for the ransom of a vessel captured by a public enemy, is a lawful contract, and will sustain a suit in the Courts of the United States. Ransom. Trade with enemy.

A passport to protect a ransomed vessel from all other vessels of the same nation may be received without a violation of the act of Congress of 1813. 15 *Johns.* 6—*Goodrich v. Gordon.* *Sup. court New-York,* 1818.

458. Property taken in a battle on land does not vest in the captor until the battle is over; and this is not until all pursuit has ceased and all hope of recovery gone. Moveable things taken from an enemy in a war on land belong to the sovereign of the captor. 13 *Johns.* 276—*Cook v. Howard.* *Sup. court, New-York,* 1816. War. Capture on land. Prize.

459. An officer in the Navy of the United States, may lawfully sink a vessel employed as a transport in the service of the United States, and laden with munitions of war, to prevent them from falling into the hands of the enemy, and is not liable to the owner of the vessel for its value. 17 *Johns.* 46—*Bronson v. Woolsey.* *Sup. court New-York,* 1819. War. Officer.

460. The parts of the Island of St Domingo, which, in 1810 were respectively under the Government of *Petion* and *Christophe*, were not to be considered as independent states, within the meaning of the act of Congress of June 5th, 1794, prohibiting armaments against foreign states with whom the United States were at peace. 13 *Johns.* 141—*Hoyt v. Gelston.* *Sup. court, New-York,* 1816. S. C. *in court of Errors,* 13 *Johns.* 561. 1816. St. Domingo. New states.

461. The laws of a foreign country may be proved by oral testimony. 14 *Mass. Rev.* 455—*Frith v. Sprague,* *Sup. court Mass.* 1817. Foreign laws. Evidence.

462. The public national seal of a foreign state is noticed judicially by the tribunals of other states; and the record of a judgment authenticated by such seal, need not be accompanied by a certificate of the seal of the court. National seal. Law of nations. Evidence.

- Foreign records. nied by any certificate of its being a copy under the official signatures of any officer of the court rendering such judgment. 2 *Conn. Reports*. 85—*Griswold v. Pitcairn*, *Supreme court Errors*, *Conn.* 1816.
- Foreign sen- 463. The seal of a foreign court of admiralty need not be
Evidence. proved. 3 *Conn. Rep.* 171—*Thompson v. Stewart*, *Supreme*
Admiralty. *court Errors*, *Connecticut*, 1819.
- Admiralty. 464. A rescue by the crew of a neutral vessel, captured by
Neutrals. a belligerent for an alleged violation of neutrality, is a good
Rescue. cause of condemnation. 8 *Mass. Rep.* 536—*Robinson v. Jones*.
Sup. court Mass. 1812. 12 *Mass. Rep.* 246—*McLellan v. Me.*
F. and M. Insurance Co. S. P. Sup. court Mass. 1815.
- Enemy license. 465. An enemy's license to a neutral vessel will not avoid
the policy. 12 *Mass. Rep.* 176—*Hayward v. Blake*, *Supreme*
court Mass. 1813.
- id. 466. The acceptance and sailing under an enemy's license
is an illegal act, without regard to the object of the voyage; and
no action can be maintained on a policy containing a warranty
that the vessel should have an enemy's license. 15 *Johns.* 352
—*Colquhoun v. N. Y. Firemen Ins. Co Sup. court. N. Y.* 1818.
- Prize. 467. The goods of a merchant domiciled in the enemy's
Domicil. country at the breaking out of war, are liable to condemnation
as enemy's property. 16 *Johns.* 128—*Elbers v. U. S. Ins.*
Company, Sup. court New-York. 1819.
- Search. 468. The belligerent right of search draws after it a right
to the production and examination of the ship's papers. *Livingston v. Maryland Ins. Co.*—7 *Cranch*, 544, *Sup. court U.*
S. 1813.
- Prize. 469. Concealment and even spoliation of papers do not or-
Spoliation. dinarly induce a condemnation of the property; but they al-
Admiralty. ways afford cause of suspicion, justify capture and detention,
Further proof. and by inducing a refusal of further proof, may lead to con-
demnation. *Ibidem*—see also the *Pizarro*—2 *Wheaton*, 227,
Sup. court U. S. 1817.
- Admiralty. 470. The prize jurisdiction is not confined to mere captures
Prize. at sea; it does not depend upon locality, but upon the subject
matter. It takes cognizance, not only of captures made at
sea, and in creeks, &c. but of all captures on land by a naval
force, or by co-operation with a naval force. *Brown v. U. S.*
—8 *Cranch*, 139. *Sup. court U. S.* 1814. *The Emulous*, 1
Gallison, 574. *C. C. Massachusetts*, 1813
- Admiralty. 471. Those who have no interest in the vessel which could
Capture on be asserted in the court of admiralty, have no notice of her
land. seizure, and cannot be considered as parties in the proceeding
- Admiralty. 471. Those who have no interest in the vessel which could
Notice of seiz- be asserted in the court of admiralty, have no notice of her
ure. seizure, and cannot be considered as parties in the proceeding

against the vessel. *The Mary*—9 *Cranch*, 126. *Sup. court* U. S. 1815.

472. Material men, and others, who furnish supplies to a foreign ship, have a lien on the vessel, and may proceed in admiralty to enforce it. *The Aurora*—1 *Whaton*, 105. See also, *The General Smith*—4 *Wheaton*, 43. *The Robert Fulton*—1 *Paine*, 620. C. C. *New-York*. 1826. *The Jerusalem*—2 *Gallison*, 45, C C *Mass*. 1815. Admiralty. Material men.

473 A privateer of a friendly nation, twice re-captured by an American privateer, will be restored to the original owner, on payment of salvage. *L'Invincible*—1 *Wheaton*, 258, *Sup. court* U. S. 1816. Admiralty. Salvage. Prize.

474. In cases of violation of our neutrality, by any of the belligerents, if the prize comes voluntarily within our territory, it is restored to the original owners by our courts; but their jurisdiction for this purpose, under the law of nations, extends only to the restitution of the specific property, with costs and expenses during the pendency of the suit; and does not extend to the infliction of vindictive damages, as in ordinary cases of maritime tort.—*La Amistad de Rues*—5 *Wheat*, 385 *Sup. court*, U. S. 1820. Admiralty Pr. Neutrals. Law of nations.

475. The mere circumstance that a neutral sailed under convoy of a belligerent, is not, it seems, a sufficient cause of condemnation.—*The Amiable Isabella*—6 *Wheaton*, 1. *Sup. court*, U. S. 1821. Admiralty. Prize. Convoy.

476. Where a capture is made under the commission of a foreign country, the captors have a right, which no other nation, neutral to them, has a right to impugn, unless for the purpose of vindicating its own violated neutrality.—*La Ne-reyda*—8 *Wheat*, 108. *Sup. court*, U. S. 1823. Admiralty. Prize. Neutrals.

477. In cases of restitution upon re capture, damages may be awarded against the re-captors for embezzlement.—*The Dove*—1 *Gall*. 585. C. C. *Mass*. 1813. Admiralty. Embezzlement.

478. The admiralty has cognizance of all foreign maritime contracts.—*De Lovio v Boit*—2 *Gall*. 444. C. C. *Mass*. 1815. Admiralty. Jurisdiction.

479. A wharfinger has a lien on a foreign ship for wharfage.—*Ex parte Lewis*, 2 *Gall*. 483. C C. *Mass*. 1815. Admiralty. Wharfage.

480. Where the proceedings are *in rem*, all the world become parties to the sentence, as far as the right of property is involved, and of course all persons interested in the property in question, are admissible to claim and defend their interests.—*U. S v. Anthony Mangel*—2 *Peters' Admir. Decisions*, 452. *District Court Penn*. 1802. Admiralty. Sentence *in rem*.

- Treason.** 481. Treason against the United States cannot be committed by a person not a citizen of the United States, out of the territory of the United States.—*U. S. v. Vilatto*—2 *Dallas*, 370. C. C. *Penn.* 1797.
- Admiralty.** 482. The fact that a commander of a private armed vessel was an alien enemy at the time of capture, does not invalidate such capture, nor affect the rights of the owners and crew of the privateer; all that could result from it would be the condemnation of his interest to the Government, as a *droit* of admiralty.—*The Mary and Susan*—1 *Wheat*, 46. *Sup. Court, U. S.* 1816.
- Prize.**
- Alien Enemy.** 483. An alien enemy cannot sustain any suit in the Courts of this country.—*Mumford v. Mumford*—1 *Gall* 366. C. C. *Rhode Island*, 1812.
- Alien Enemy.** 484. An alien enemy cannot be permitted to make the declaration required by law, preparatory to naturalization.—*Ex parte Newman*—2 *Gall* 11. C. C. *Mass.* 1813.
- Foreign Corporation.** 485. If a foreign corporation, established in a foreign country, sue in our courts, and war intervene between the countries, pending the suit, this is not sufficient to defeat the action, unless it appear, upon the record, that the plaintiffs are not within any of the exceptions which enable an alien enemy to sue.—*Soc. for prop. Gospel v. Wheeler*—2 *Gall* 105. C. C. *New Hampshire*, 1814.
- Alien Enemy.** 486. A neutral, or a citizen of the United States, domiciled in an enemy's country, is incapacitated to sue in our courts.—*Ibidem*.
- Id.** 487. Alien enemies enrolled as volunteers, and accepted by the President of the United States, are not entitled to discharge on the ground of such alienage.—*Wilson v. Izard*—1 *Paine*, 68. C. C. *New York*, 1820.
- Enlistment.**
- Alien Enemy.** 488. The general rule of the Common Law of England is, that an alien enemy cannot maintain an action in the courts of that country, in his own name, nor in the name of a trustee, who is not an alien enemy, unless it be upon a contract, arising out of a trade, licensed by the Government in whose courts redress is sought.
- But the rules of the common law, in cases of alien enemy, do not apply with the rigor, in courts acting under the general law of nations.—*Crawford v. the William Penn*—1 *Peters'* C. C. R. 106, *New Jersey*, 1815.
- Id.** 489. If the pleadings aver the Plaintiff to be an alien enemy, it is incumbent on him to show a special exemption from the general rule, if he has any—whether the Court

proceeds under the law of nations, or the common law.—*Johnson v. Merchandize*—6 *Hall's Law Journal*. 97 *District Court, New York*, 1817.

490. It seems that the judgment of the court, admitting the alien to become a citizen, is conclusive that all the requisites have been complied with, or that parol proof may be received in aid of the record —*Stark v. Ches In. co.*—7 *Cr. Sup Court United States*, 1813. Alien.
Naturalization.

491. A citizen of the United States, fitting out a vessel in the ports of the United States, to cruize against a power in amity with the United States, is not protected by a commission from a belligerent, from punishment for any offence committed against vessels of the United States.—*The Dos Hermanos*—2 *Wheat*, 76. *Supreme Court United States*, 1817. Foreign Commission.
Admiralty.

492. A native citizen of the United States cannot throw off his allegiance, unless authorised by a law so to do.—*U. S. v. Gillies*—1 *Peters' C. C. r.* 159. *U. S. v. Williams*—4 *Hall's Law Journal*, 461. *C. C. Conn.* 1799. Allegiance.
Expatriation.

493. When a government becomes a partner in any trading company, it divests itself, so far as concerns the transactions of that company, of its sovereign character, and takes that of a private citizen —*Bank United States v. Planter's Bank of Georgia*—9 *Wheaton* 904, 1824. Sovereign.

494. A corporation established by a foreign Government, in a foreign country, is an alien corporation, whoever may be its members, and if the country become hostile, it may, for some purpose, at least, be clothed with the same character.—*Society for propagating Gospel v. Wheeler*—2 *Gall.* 105. *C. C. New Hampshire*. 1814. Foreign Corporation.
Alien Enemy.

495. A ship is deemed to belong to that country where her owners reside.—*The San Jose Indiano*—2 *Gall.* 268. *C. C. Massachusetts*, 1814. Admiralty.
Domicil.

496. By the general maritime law, a bill of sale is necessary to pass the title of a ship.—*Watson v. Penniman*—1 *Mason*. 306. Maritime Law.
Sale of Ship.

497. The lien on vessels for material-men and ship-wrights exists only in a foreign port. The sea ports of the several states of this union, are, in this respect to be considered foreign ports, in relation to each other. *Woodruff v. The Levi Dearborn*—4 *Hall's Law Jour.* 88, *Dis. court, Ga.* 1811. Admiralty.
Material-men.
Lien.
Foreign ports.

498. The article of the British treaty, which provides that a neutral vessel sailing ignorantly for a blockaded port, may be turned away, and shall not be detained, nor her cargo, if Treaty.
British treaty.
Blockade.

not contraband, confiscated, unless after notice she shall again attempt to enter; but shall be permitted to go to any other port, is a correct exposition of the law of nations. *Fitzsimmons v. Newport Ins. co.*—4 Cranch 185, Sup. court, United States, 1808

Blockade.
Contraband.
Neutrals.
Admiralty.

499. In cases of breach of blockade and of contraband of war, the doctrine is established that the vessel must be captured *in delicto*, otherwise the offence is purged *The Saunders*—2 Gall 210, C. C. Mass., 1814.

British debts.
Confiscation.
Treaty.
British treaty.

500. Debts due to British subjects during the revolutionary war, although paid into the state treasury, under the authority of an act of the Legislature, may be sued for and recovered after the peace. *Hamilton v. Eaton*, N. Car. cases, 77.

Capitulation.
Prize.

501. On surrender by capitulation, all the property of the inhabitants protected by the articles, is considered, by the law of nations as neutral, and not subject to capture on the high seas, by the belligerent or its allies. *Miller v. The Resolution*—2 Dall. 1. Fed. court of Appeals, 1781.

Neutrals.
Admiralty.

Neutrals.
Prize.

502. Neutral property is not liable to condemnation; but on a violation of the duties of neutrality, it is in the predicament of enemy's property, and subject to seizure and condemnation. *Darby v. The Erstern*—2 Dall. 34, Fed. court of Appeals, 1782.

Admiralty.
Prize.
Jurisdiction.

503. The courts of the captors have, by the law of nations the exclusive jurisdiction of the question of prize. *United States v. Peters*—3 Dall. 129, Sup. court, United States, 1795.

Search.
Prize.
Admiralty.

504. The right of search grows out of, and is auxiliary to the greater right of capture. *The Nereide*, 9 Cranch 388, Supreme court, United States, 1815

Admiralty.
Prize.
Trespass.
Marine trespass.

505. Where the captor transcends his powers and rights, he becomes guilty of a marine trespass, and is amenable in damages for the injury sustained; and where the vessel has been lost by such illegal acts, the value of the vessel, the prime cost of the cargo, with all charges and the premium of insurance are to be allowed in ascertaining the damages — *The Anna Maria*—2 Wheaton 327, Sup. court U. S., 1817.

Admiralty.
Marine trespass.

506. The commander of a squadron is liable to individuals for the trespasses of those under his command, in case of positive or permissive orders, or of actual presence and co-operation. *The Eleanor*—2 Wheaton. 345 Sup. court, U. S. 1817.

Privateers.

507. Owners of privateers are liable for the acts of the commanders; and the commander of a single ship is liable for the marine trespasses of his subalterns, when acting within the scope of his command. *Ibid.*

Marine trespass.
Admiralty.

508. By the general maritime law, a sentence of condemnation completely extinguishes the title of the original proprietor. *The Star*—3 *Wheaton*, 78, *Sup. court, U. S.*, 1818. Admiralty. Sentence. Prize. Maritime law.
509. Whoever sets up a title to property under a decree of condemnation is bound to show that the court had jurisdiction of the cause, and that the decree of the court has been rightly pronounced, upon the application of parties competent to ask it. *La Nereyda*—8 *Wheaton*, 108, *Sup. court, U. S.*, 1823. Admiralty. Foreign sentence. Jurisdiction.
510. Where the capture is made by captors acting under a foreign commission, such capture gives them a right which no other nation, neutral to them, has a right to impugn, unless for the purpose of vindicating its own violated neutrality, or unless by the assent, or voluntary submission of the captors. *Ibid.* Admiralty. Prize. Neutrals. Foreign commission.
511. All captures made by non-commissioned captors are made for the government. *The Dos Hermanos*—10 *Wheat.* 306, *Supreme court, United States*, 1825. Admiralty. Prize.
512. It is sufficient to constitute a capture if there be a *deditio*, or submission, on one side, and an asserted possession on the other, although no prize crew be put on board. *The Alexander*—1 *Gallison*, 532, C. C., *Massachusetts*, 1813. Admiralty. Prize. Capture.
513. All captures in war enure to the sovereign, and can become private property only by his grant. *The Emulous*—1 *Gallison*, 563, C. C., *Massachusetts*, 1813. Admiralty. Prize.
514. Probable cause, exempts the captors from damages — *The Rover*—2 *Gallison*, 240, C. C., *Massachusetts*, 1814. Admiralty. Prize. Damages.
515. What constitutes probable cause may depend on the ordinances of the sovereign of the captors, as well as on the law of nations. *The Invincible*—2 *Gallison*, 29, 41, C. C. *Massachusetts*, 1814. Admiralty. Prize. Probable cause.
516. The protection afforded to the captors by probable cause may be forfeited by subsequent misconduct or negligence. *The George*—1 *Mason* 24, C. C. *Massachusetts*, 1816. Admiralty. Prize. Probable cause.
517. The attempt by the captain of a neutral vessel, to rescue her from the captor, is contrary to the law of nations, and a sufficient cause of condemnation. *Dederer v. Delaware Ins. Co.*—2 *Washington*, C. C. R. 61, C. C. *Penn.*, 1807. Admiralty. Neutrals. Rescue.
518. A capture is complete before the property is carried *infra præsidia*. *Moxon v. The Fanny*—2 *Peters' Adm. Dec.* 309, *District court, Pennsylvania*, 1793. Admiralty. Prize. Capture.
519. All contracts made for fitting and equipping a cartel are to be considered as contracts made between friends, and ought to be enforced in the tribunals having jurisdiction there- Admiralty. Cartel. Trade with enemy.

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- Neutrals. of. It is *pro hac vice* neutral. But she cannot carry on commerce under the protection of her flag. *Crawford v. The William Penn*—1 Peters' C. C. R. 106. C. C. N. Jersey. 1815.
- Confiscation. Maryland. 520. By the confiscating acts of the state of Maryland, the equitable interests of British subjects were confiscated without office found, or entry, or other act done, although such equitable interests were not discovered until long after the peace with Great Britain. *Smith v. state of Maryland*—6 Cranch 286, S. C., U. S., 1810.
- Confiscation. War. 521. By the law of nations, and by the common law, the sovereign may lawfully confiscate the debts of his enemy during war, or by way of reprisal. *The Emulous*—1 Gall. 563. C. C., Massachusetts, 1813. *Hamilton v. Eaton*, N. C. cases, 79.
- Confiscation. 522. That such confiscations have fallen into disuse, has resulted, not from the duty which one nation, independently of treaties, owes to another, but from commercial policy.
- Civil war which terminates in a severance of empire, does, perhaps, less than any other justify the confiscation of debts, because of the special relation and confidence subsisting at the time they were contracted. *Hamilton v. Eaton* N. C. cases, 79.
- War. 523. By a conquest, the conquerer acquires only a temporary right of possession and government. *Clark v. U. S.*—8 Washington, C. C. Reports, 101. C. C. Penn. 1811.
- Conquest. id. 524. By the conquest and military occupation of a portion of the territory of the United States by a public enemy, that portion is to be deemed a foreign country so far as respects our revenue laws. *U. S. v. Rice*—4 Wheaton, 246, Sup. court U. S. 1819.
- id. id.
- Importation. 525. Goods imported into it, are not imported into the U. States, and are subject to such duties only as the conqueror may impose. *Ibid.*
- War. 526. The subsequent evacuation of the conquered territory by the enemy, and resumption of authority by the U. States, cannot change the character of past transactions. The *ius postliminii* does not apply to the case, and goods previously imported do not become liable to pay duties to the U. States. *Ibid.*
- Conquest. 527. The British treaty of 1783, repealed all the state laws inconsistent with its provisions, *Ware v. Hylton*—3 Dallas, 199. Sup. court U. S. 1796.
- British treaty. Confiscation. 528. An act of a State Legislature, banishing the person, and confiscating the property, of certain individuals, therein

named, as traitors. passed before the establishment of the federal constitution. is not void. *Cooper v. Telfair*—4 *Dallas*, 14, *Sup. court U. S.* 1800.

529. Under the power "to make rules concerning captures on land and water," Congress has power to confiscate enemy's property found within the territory at the declaration of war. *Brown v. U. S.*—8 *Cranch*, 110, *Sup. court U. S.* 1814. Confiscation.

530. Whenever a right grows out of, or is protected by, a treaty, it is sanctioned against all the laws and judicial decisions of the states; and whoever may have this right it is protected. But if the person's title is not affected by the treaty, if he claims nothing under the treaty, his title cannot be protected by the treaty. *Owings v. Norwood's lessee*—5 *Cranch*, 548, *Sup. court U. S.* 1809. Treaty.

531. Congress has power to provide for the punishment of offences committed by persons serving on board a ship of war of the United States, wherever that ship may be: but Congress has not exercised that power in the case of a ship lying in the waters of the United States. *U. S. v. Bevans*—3 *Wheaton*, 336, *Sup. court U. S.* 18. Crimes.
Jurisdiction.
Ship of war.

532. The act of Congress of March 3d, 1819, c. 76, §. 35, referring to the law of nations for a definition of the crime of piracy, is a constitutional exercise of the power of Congress to define that crime. *U. S. v. Smith*—5 *Wheaton* 153, *Sup. court U. S.* 1820. Piracy.

533. The Supreme Court of the United States has, constitutionally, appellate jurisdiction under the 25th section of the judiciary act of September 24, 1789, ch. 20, from the final judgment or decree of the highest court of law or Equity of a state having jurisdiction of the suit, where is drawn in question the validity of a treaty, or statute of, or an authority exercised under the United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under any state, on the ground of their being repugnant to the constitution, treaties or laws of the United States, and the decision is in favor of their validity, &c. *Cohens v. Virginia*—6 *Wheaton* 264, *Sup. court U. S.* 1821. Jurisdiction.
State courts.

534. The power to regulate commerce extends to every species of commercial intercourse between the United States and foreign nations, and among the several states. *Gibbons v. Ogden*—9 *Wheaton*, 193, *Sup. court U. S.* 1824. Commerce.

535. A foreign consul is not exempt from criminal prosecution by virtue of his appointment. *U. S. v. Ravara*—2 *Dallas* 297, *C. C. Pennsylvania*, 1793. Consul.
Law of nations

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- Consul.** 536. A consul, though a public agent, is supposed to be clothed with authority only for commercial purposes. He has a right to interpose claims for the restitution of property belonging to subjects of his own country; but he is not entitled to be considered as a minister, or diplomatic agent of his sovereign, intrusted, by virtue of his office, with authority to represent him in his negotiations with foreign states, or to vindicate his prerogative. *The Anne*—3 *Wheaton*, 435-446, *Sup. court U. S.* 1818.
- Law of nations.**
- Foreign ministers.**
- Consul.** 537. A consul is authorised to claim in behalf of subjects of his country. *The London Packet*—1 *Mason*, 14, *C. court Massachusetts*, 1816. *Gernon v. Cochran*—*Bee*, 209, *District court South Carolina*, 1804.
- Law of nations.**
- Admiralty.**
- High seas.** 538 On an indictment for murder founded on the 8th §. of the Act of Congress of April 30, 1790, chapter 36, the death, as well as the mortal stroke must happen on the high seas.—*U. S. v. McGill*—4 *Dallas*, 426, *C. C. Penn.* 1806.
- Murder.**
- Jurisdiction.** 539. The courts of the United State have not jurisdiction of murder committed by one foreigner on another foreigner, on board a foreign vessel on the high seas. *U. S. v. The Pirates*—5 *Wheaton*, 184. *Sup. court U. S.* 1820.
- Foreign vessels**
- Foreign courts.** 540. A condemnation of a foreign court, whose origin is not shewn, must be presumed to be that of a legitimate tribunal. But when the source of its authority and constitution appear, it ought to be examined; and if it be contrary to the usual mode of constituting courts, it shifts the burden of proof upon the party who would support the condemnation, particularly as it is more easy to prove than to disprove, the legitimacy of a court. *Snell v. Foussat*—*C. C. U. S Penn.* 1805. 3 *Binney*, 239, (*n.*) *S C.*—1 *Washington*, *C. C. Rep.* 271, 1805.
- Jurisdiction.**
- Foreign courts.** 541. A condemnation of neutral property by an unauthorised tribunal, is not to be regarded by the courts of other nations. *Id. ib.*
- Jurisdiction.**
- Foreign commission.** 542. A citizen of the United States fitting out a vessel in a port of the United States to cruize against a power in amity with the United States, is not protected, by a commission from a belligerent, from punishment for an offence committed against a vessel of the United States. *U. S. v. The Pirates*—5 *Wheaton*, 184. *Sup. court U. S.* 1820.
- Foreign vessels**
- Murder.** 543. The courts of the United States, have jurisdiction of a murder committed, on the high seas, from a vessel of the U. States, by a foreigner being on board such vessel, upon an

other foreigner being on board of a foreign vessel. *U S. v. Jurisdiction. the Pirates—5 Wheaton, 184, Supreme Court United States, 1820.*

544. The courts of the United States, have jurisdiction, High seas. Jurisdiction. Murder. under the act of 30th April 1790, ch. 36, of murder or robbery committed on the high seas, although not committed on board a vessel belonging to citizens of the United States as, if she had no national character, but was held by pirates, or persons not lawfully sailing under the flag of any foreign nation. *U. S. v. Holmes & al—5 Wheat, 412 Sup. Court, U. S. 1820.*

545. Murder or robbery on the high seas, is cognizable by Foreign vessels Jurisdiction. Piracy. the courts of the United States, when committed on board of a foreign vessel, by a citizen of the United States, or on board of a vessel of the United States, by a foreigner or by a citizen or a foreigner, on board of a piratical vessel; and it is immaterial whether the offence was committed on board of a vessel, or in the sea, by throwing the deceased overboard and drowning, or by shooting him in the sea, though he was not thrown overboard. *Id. ib.*

546. A vessel lying on the sea, outside of a harbour of the High seas. United States, within three miles of the shore, is on the high seas. *United States, v. Smith—1, Mason, 147, C. C. Massachusetts, 1817.*

547. Larceny committed on board of an American ship in Jurisdiction. an enclosed dock in a foreign port, is not punishable under the 16th section of the act of the 30th of April 1790. *C. C. Massachusetts 1817. United States v. Hamilton—1, Mason, 152.*

548. The waters of havens, where the tide ebbs and flows, High seas. are not properly the high seas, unless without low-water mark. *Id. ib.*

549. On an indictment for an endeavor to make a revolt in Mariners. Revolt. a ship, founded on the 12th section of the act of 30th April 1790, chapter 36, it is not necessary to prove that it was committed on the high seas. High seas. *Id. 443.*

550. An endeavor to make a revolt, is an offence within the Revolt. Mariners. 12th section of the act of 30th April, 1790, c. 36, if committed in a foreign port. The section does not confine the penalty to offences committed on the high seas. High seas. *United States v. Keefe —3 Mason, 475, C. C. Mass. 1824.*

551. If the force of a foreign armed belligerent vessel be Foreign vessels increased here, by preparing for use guns brought with her, it is an offence against the 4th section of the act of 5th June, 1794, c. 226. *United States v. Grassin—3 Washington C. C. Rep. 65, C. C. Penn. 1811.*

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- Mariners.
Revolt.** 552. The endeavor to make a revolt in a ship within the mouth of a foreign river, which is a mile and an half wide, is an offence within the act of 30th April, 1790, ch. 36, sect. 12.—*United States v. Smith & al.*—3 Wash. C. C. R. 78. C. C. *Pennsylvania*, 1811.
- Neutrals.** 553. It is a violation of the act of 5th June, 1794, c. 226, to concert an expedition from the United States, to commit hostilities against a power at peace with the United States; and it is unimportant that the expedition originated beyond seas, if carried on from this country.—*Exparte Needham & al*—1 Peters' C. C. R. 487. C. C. *Pennsylvania*, 1817.
- Admiralty.
Derelict.
Limitation.** 554. No length of time shall divest the original owner of property found derelict at sea.—*Wilkie et al v. 205 boxes of sugar.*—*Bee*, 82. *District Court of South Carolina*. 1796.
- Admiralty.
Neutrals.
Derelict.
Prize.** 555. The subject of a neutral power, residing and carrying on trade in the enemy's country, loses his neutral character.—*Chester v. The Experiment*—2 *Dallas*, 42. *Federal court of Appeals*, 1787.
- Admiralty.
Domicil.
Prize.** 556. Goods, the property of a person actually domiciled in the enemy's country, at the breaking out of the war, are subject to capture and condemnation as prize.—*The Mary & Susan*. 1 *Wheaton*. 46. *Supreme court United States*, 1816. *The Francis*—1 *Gall*. 614. C. C. *Rhode Island*, 1813.
- Admiralty.
Domicil.
Prize.** 557. If a party put himself *in itinere* to return to his native country, he is already deemed to have re assumed his native character.—*The St. Lawrence*—1 *Gall*. 467. C. C. *Massachusetts*, 1813. *The Francis*—1 *Gall* 614. C. C. *Rhode Island*, 1813.
- Admiralty.
Prize.
Domicil.** 558. Citizens, domiciled in the enemy's country, must actually remove before the breaking out of hostilities, otherwise their property, then afloat, will be liable to capture.—*The Francis*—1 *Gall*. 614. C. C. *Rhode Island*, 1813.
- Domicil.
Prize.
Alien.** 559. A neutral, or a citizen of the United States, domiciled in the enemy's country, not only in respect to his property, but also as to his capacity to sue, is deemed as much an alien as a person actually born under the allegiance, and residing within the dominions of the hostile nation.—*Soc. for the Propagation of the Gospel v. Wheeler & al.*—2 *Gall*. 105. C. C. *New Hampshire*, 1814.
- Admiralty.
Prize.
Domicil.
Neutrals.** 560. In general, the national character of a person is to be decided by his domicil.—*The San Jose Indiano*. 2 *Gall*. 268. C. C. *Massachusetts*, 1814.
- Admiralty.
Prize.** 561. But the property of a person may acquire a hostile character, altogether independent of his own peculiar

character, derived from residence. The origin of the pro- Domicil.
 perty, or the traffic in which it is engaged, may stamp it with Trade.
 a hostile taint, although the owner may happen to be a neu- Neutrals.
 tral, domiciled in a neutral country. Such are the cases
 of engagement in the colonial, coasting, fishing. or other
 privileged trade, of the enemy.

The general principle is, that where a person is engaged
 in the ordinary or extraordinary, commerce of an enemy's
 country, upon the same footing, and with the same advanta-
 ges as native resident subjects, his property, so employed,
 is to be deemed incorporated into the general commerce of
 that country, and subject to confiscation, be his residence
 where it may.—*id. ib.*

Every man is viewed, by the law of nations, as a member
 of the society where he is found.

Residence is *prima facie* evidence of national character;
 susceptible, however, at all times, of explanation. If it be
 for a special purpose, and transient in its nature, it shall not
 destroy the original, or prior national character. But if be
 taken up *animo manendi*, then it becomes a domicile, super-
 adding to the original or prior character, the rights and
 privileges, as well as the disabilities and penalties of a citi-
 zen or subject of the country in which the residence is es-
 tablished.—*Johnson v. sundry articles of merchandize*. 6
Hall's American Law Journal, 68. *District court, New*
York, 1813.

562. An inhabitant, or resident, is a person coming into a Admiralty.
 place with an *intention* to establish his domicile or permanent Domicil.
 residence, and in consequence thereof, actually residing. Inhabitant.
 The time is not so essential as the intent, executed by making Prize.
 or beginning the actual establishment, though it is abandoned Neutrals.
 in a longer or shorter period.—*United States v. The Pene-*
lope—2 *Peters' Admiralty Decisions*, 438. *District Court*
Pennsylvania, 1806.

563. An exemplification of the condemnation of a vessel in a Foreign Sen-
 a foreign court of Vice Admiralty, reciting the certificate of tence.
 surveyors, that the vessel was unworthy of being repaired, Evidence.
 and unsafe, and unfit ever to go to sea again, and produced
 in evidence by the insured, to prove the loss, is evidence of a
 regular survey.—*Dorr v. Pacific Insurance Company*—7
Wheaton, 581. *Supreme court United States*, 1822.

564. The record of condemnation of a vessel in a court of Foreign sen-
 vice admiralty, is not evidence *per se*. The seal does not tence.
 prove itself, but must be proved by a witness who knows it; Evidence.

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- or the hand-writing of the judge, or clerk, must be proved; or that it is an examined copy. The certificate of the American Consul is not sufficient to authenticate it. *Cullett & al v. Pacific Ins. com*, C. C., N. Y 1 Paine 194.
- Consul. Admiralty.** 565. A certificate from the register of a vice admiralty court, that a warrant of survey of a vessel was lost, is not evidence of the loss. It should be proved under a commission. *Robinson v. Clifford*—2 Wash. C. C. Rep. 1, C. C. Pennsylvania, 1807.
- Evidence. Admiralty. Survey.**
- Foreign survey.** 566. The report of surveyors in a foreign port, upon a survey ordered by the American consul, is not evidence; it not being a judicial act; but the facts stated in the report must be proved as in ordinary cases. It might be otherwise, if there were no tribunal at the place competent to issue a regular order of survey. *Cort et al v. Del. Ins. com.*—2 Wash. C. C. Rep. 375, C. C. Penn. 1809.
- Evidence. Consul.**
- Foreign record.** 567. A copy of the record of a foreign court cannot be read in evidence, without the sanction of the seal of the officer by whom it was made out; there being no proof that he had, or had not, a seal. *Talcot v. Delaware Ins. com.*—2 Washington, C. C. Rep. 449, C. C. Pennsylvania. 1810.
- Evidence. Seal.**
- Embargo. Consul.** 568. The certificate of an American Consul, at a foreign port, under his seal of office, stating that the ship's papers were lodged with him, agreeably to the requisitions of the embargo law, is good evidence of that fact; but not of other facts contained in the certificate. *U. S. v. Mitchell*—2 Wash. C. C. Rep. 478, C. C. Pennsylvania, 1811.
- Evidence.**
- Foreign survey. Evidence.** 569. The report of surveyors appointed in a foreign country, to examine a vessel, is only evidence that a survey was ordered and made, but not of the facts stated in it. *Watson et al v. Ins. com. of North America*—3 Washington, C. C. R. 1, C. C. Pennsylvania. 1811.
- Foreign minister. Secretary of State. Evidence.** 570. The certificate of the Secretary of State of the United States, is the best evidence to prove that one, has been received and accredited by our government, as a minister of a foreign nation. *U. S. v. Little*—2 Washington, C. C. Rep. 205, C. C. Pennsylvania, 1808.
- Foreign sentence. Evidence.** 571. Where the sentence of a foreign court of admiralty is full, and shews clearly the ground of condemnation, no other part of the record need be produced. *Hourquibee v. Gerard's Adm.*—2 Wash. C. C. Rep. 164, 212, C. C. Pennsylvania, 1808,
- Foreign sentence.** 572. When a party alleges a decree and sale by a foreign government, the presumption is, that it was in writing; and a

copy of it should be produced; but if this presumption is rebutted, evidence of an inferior character is admissible. *Wood v. Pleasants*—3 Wash. C. C. Rep. 201, C. C. Penn. 1813. Evidence.

573. The comity of civilized warfare requires that the official assertions of a commanding officer, as to a fact within his knowledge, should be regarded as evidence, even by his enemy. An official letter therefore from a British Admiral that a certain vessel, sailing from his squadron, carried a flag of truce, is evidence to establish that fact. *U. S. v. Pryor*—3 Washington, C. C. Rep. 234, C. C. Penn., 1814. War. Evidence.

574. The written laws of foreign countries must be proved by the laws themselves, if they can be procured; if not inferior evidence may be admitted. Foreign laws

The unwritten laws and usages of such countries may be proved by parol. and when proved, the court has a right to construe them and decide on their effect. *Consequa v. Willing et al*—1 Peters' C. C. Rep. 225, C. C. Penn., 1816. Evidence.

575. In two cases only can foreign laws affect the contracts of American citizens—1st. When they reside or trade in a foreign country; and 2dly, When the contract plainly referring to a foreign country for its execution, adopts and recognises the *lex loci*. *Searight v. Calbraith*—4 Dallas, 325, C. C. Pennsylvania, 1796. Foreign laws. *Lex loci*. Evidence.

576. The bankrupt law of a foreign country cannot operate a legal transfer of property in this country. *Harrison v. Sterry et al*—5 Cranch, 289, Supreme court, U. S., 1809. Foreign laws. *Lex loci*. Bankrupt.

577. A discharge under a foreign bankrupt law, is no bar to an action in the courts of this country, on a contract made here. *McMillan v. McNeil*—4 Wheat. 209, Sup. C. U. S. 1819. Foreign law. *Lex loci*. Bankrupt.

578. Courts will not enforce the municipal regulations of a foreign country, or take cognizance of any frauds attempted upon them. *The Anne*—1 Mason, 508, C. C. Mass. 1818. Foreign laws. *Lex loci*.

579. The laws of one country cannot have any extra territorial force; and whatever force they are permitted to have in foreign countries, must depend upon the comity of nations, regulated by a sense of their own interests and public convenience. *Le Roy et al v. Crowninshield*—2 Mason, 151, 161, C. C. Massachusetts, 1820. Foreign laws. *Lex loci*.

580. Where an outrage has been committed upon the dwelling house of a foreign minister, to constitute it an offence against the law of nations, and the 27th section of the act of Foreign minister. Law of nations.

Congress of April 30th, 1790, c. 36, it must be made to appear that the party knew the house, on which the attack was made, to be the domicil of the minister; otherwise it is, merely an offence against the municipal law. *U. S. v. Hand*—2 *Washington*, C. C. R. 435, C. C. *Pennsylvania*, 1810.

Foreign minister. 581. In an indictment for assault and battery on a foreign minister, the first assault by the minister will excuse the defendant, as much as in an ordinary case. *U. S. v. Liddle*—2 *Washington*, C. C. R. 205, C. C. *Pennsylvania*, 1808.

Foreign minister. Law of nations. 582. An assault upon a foreign minister, not known as such to the aggressor, is not a violation of the law of nations, under the act of Congress. *Id. ib.*

Foreign sentence. Admiralty, 583. Though an American court will not examine a foreign adjudication, with any view to controvert it, yet it will support and carry into effect a sentence of a foreign court.—*McGrath v. The Candaleiro*—*Bee*, 60, *Dis. court*, S. C., 1794.

Admiralty. Foreign sentence. Prize. 584. The courts of the United States will not question a condemnation, in a French court of admiralty, of property carried into a port of an ally. *Sheaff et al v. 70 Hogsheads sugar*—*Bee*, 163, *District court*, S. C., 1800.

Foreign territory. Foreign laws. 585. If a merchant vessel of the U. States be seized by the naval force of the United States within the territorial jurisdiction of a foreign friendly power, for a violation of the laws of the United States, it is an offence against that power, which must be adjusted between the two governments: a court can take no cognizance of it. *The Richmond v. The U. S.* 9 *Cranch*, 102, *Supreme court*, U. S., 1815.

Admiralty. Prize. Freight. Neutrals. 586. It is a general rule that captors are not entitled to freight, unless the goods are carried to their original destination, within the intent of the contracting parties. *The Ann Green*—1 *Gall.*, 274, 289, C. C., *Massachusetts*, 1812.

High seas. 587. A vessel within a marine league of the shore, at anchor, in an open roadstead, where vessels ride under shelter of the land, is upon the high seas. *U. S. v. The Pirates*—5 *Wheat.* 184, *Supreme court*, U. S., 1820.

High seas. 588. The high seas do not extend to a river in the interior of the country. *U. S. v. Wiltberger*—5 *Wheaton*, 94, *Sup. court*, U. S., 1820.

High seas. 589. All waters, below the line of low water mark, on the sea coast, and, where the tide flows, the waters to high water mark also, are properly the *high seas*. *The Abbey*—1 *Mason*, 360, C. C. *Massachusetts*, 1817.

590. The belligerent right of search draws after it a right to the production and examination of the ship's papers.— *Livingston v. The Maryland Ins. com.*—7 *Cranch*, 506, 544, *Supreme court*, U. S., 1813. Search.
War.
591. An attempt by the master of a neutral vessel captured by a belligerent, to rescue her, is contrary to the law of nations, and a sufficient cause of condemnation; and if the attempt has been caused by any misinformation given by the captors, it will not, as between the insurer and insured, excuse the act— *Dederer v. Delaware Ins. com.*—2 *Washington*, C. C. R., 61, C. C. *Pennsylvania*, 1807. Prize.
Rescue.
Neutrals.
592. If, after a contract is made for freight to a foreign country, a war breaks out with that country, the parties are discharged from the obligation of that contract. The rule is different in case of embargo. *Odlin v. Pennsylvania Ins. com.*—2 *Washington*, C. C. *Rep.* 312, C. C., *Penn.*, 1808. War
Contract.
Alien enemy.
Embargo.
593. An individual is not so identified with his government, as that the act of his government, which vacates or suspends the contract, shall be imputable to him. *Id. ib.* Wars
Contract.
594. The law of nations does not forbid a neutral to carry belligerent goods; and if the goods are condemned, the neutral carrier is entitled to freight. *Schwartz v. Insurance company of North America*—3 *Wash. C. C. Rep.* 170, C. C. *Pennsylvania*, 1812. War.
Law of nations.
Neutrals.
Freight.
595. If a decree of condemnation, as prize, be passed by a court of competent jurisdiction, all courts and parties are estopped to deny the legality of the capture. *Miller et al v. The Resolution*—2 *Dallas*, 1 *Federal court of Appeals*, 1781. Foreign sen-
tence.
Admiralty.
Prize.
596. A decree of a court of admiralty *in rem*, is conclusive every where; nor can the grounds of such decree be enquired into, in another court of admiralty, on a libel to carry it into effect. *Penhallow v. Doane's Adm.*—3 *Dallas*, 54. *Supreme court*, U. S., 1795. Admiralty.
Foreign sen-
tence.
597. Questions of prize are exclusively of admiralty jurisdiction. *Bingham v. Cabot*—3 *Dall.* 19, *S. court* U. S. 1795. Admiralty.
Prize.
- Jurisdiction of prize belongs exclusively to the courts of the captors. *U. S. v. Peters*—3 *Dallas*, 129, *S. court*, U. S. 1795. *The Invincible*—2, *Gallison*, 29, C. C., *Massachusetts*, 1814. *Castello v. Bouteille*—*Bee*, 29, *Dist. court*, S. C. 1794. Jurisdiction.
598. An officer of a belligerent vessel of war cannot be arrested or tried in a neutral nation for a capture made on War.
Neutrals.

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- High Seas. Prize. Jurisdiction. the high seas, as prize of war, and carried for adjudication into a belligerent port.—*United States v. Peters*—3 *Dallas*, 129, *Sup. court U. S.* 1795.
- High seas. Jurisdiction. Murder. 599. The federal courts have no jurisdiction of a case where the mortal stroke was given on the high seas, and the death occurred on shore in a foreign country. *U. S. v. McGill*—4 *Dallas*, 426, *C. C. Penn.* 1806.
- Admiralty. Murder. Jurisdiction. 600. Although a murder committed in the waters of a state where the tide ebbs and flows, may be a case of admiralty and maritime jurisdiction, exclusively vested in the courts of the United States, yet Congress have not provided for the exercise of the jurisdiction in such a case. *U. S. v. Bevans*—3 *Wheaton*, 336, *Sup. court U. S.* 1818.
- High seas. Admiralty. Prize. Jurisdiction. 601. The District Courts of the United States have jurisdiction of questions of prize and its incidents, independently of the provisions of the prize act of 26th June, 1812, chapter 430. *The Amiable Nancy*—3 *Wheaton*, 546—*Sup. court United States.* 1818. 1 *Paine*, 111.
- Admiralty. Prize. Neutrals. Jurisdiction. 602. Whatever may be the exemption of a public ship herself, and of her armament and munitions of war, from being amenable to the jurisdiction of our courts, the prize property which she brings into our ports is liable to such jurisdiction, for the purpose of examination and enquiry; and for restitution in case of a violation of our neutrality. *The Santissima Trinidad*—7 *Wheaton*, 283, *Sup. court United States*, 1822.—*The Invincible*—2 *Gallison*, 29, *C. C. Mass.* 1814. *Contra—Findlay v. The William*—1 *Adam. Dec.* 12, *District court, Penn.* 1793.
- Seizure. Jurisdiction. Foreign territory. 603. If a seizure be made in the waters of a foreign nation the cognizance of the cause belongs to the court of the district into which the property is brought. *The Merino et. al.*—9 *Wheaton*, 391, *Sup. court U. S.* 1824.
- Admiralty. Prize. Jurisdiction. 604. Condemnation may take place in a prize cause, even when the prize is lying in the port of an ally, or a neutral, and this right of jurisdiction and condemnation equally applies to municipal seizures, in the name of the sovereign while the property is in a neutral port. *U. S. v. Mann*—1 *Gallison*, 3, 177, *C. C. New Hampshire*, 1812. *The Arabella v. The Madeira* 2 *Gallison*, 368, *C. C. Mass.* 1815.
- id. 605. In case of a recapture, escape, or voluntary discharge of a captured vessel, the right of the courts of the belligerent, to adjudicate upon the property as prize, is completely gone;

but it does not thence follow that such courts are deprived of Admiralty. the authority to award damages to the injured party where the Prize. capture has been unlawful, and thereby indirectly entertain Jurisdiction. the question of prize. *The Invincible*—2 Gallison, 29, C. C.

Mass. 1814.

606. No suit can be sustained, in a neutral tribunal, against Admiralty. a lawfully commissioned cruiser, which is brought within its Neutrals. jurisdiction, to recover damages for a supposed illegal cap- Jurisdiction. ture. *Id. ib.*

607. The admiralty has cognizance of foreign maritime con- Admiralty. tracts. *De Lovio v. Boit et al.*—2 Gallison, 398, C. C. Mas- Jurisdiction. sachusetts, 1815.

608. The District Courts of the United States will not as- Admiralty. sume jurisdiction of questions of prize between foreign na- Prize. tions, occurring upon the high seas, *flagrante bello*. *Hernan- Jurisdiction. dez v. Aury*—1 Jour. of Jurisprudence, 131. Neutrals.

609. The Courts of the United States cannot question the Admiralty. validity of the commission of a French privateer whose prize Prize. is brought into our ports. *Ramon de Salderondo v. Nostra Jurisdiction. Senora del Canino, et al.*—Bee, 43, District court, South Car- Neutrals. olina, 1794.

610. The Courts of the U. States have jurisdiction where Admiralty. American citizens capture the property of a friend; where a Neutrals. belligerent captures American property and brings it into an Prize. American port; where a capture is made within our neutral limits; where the capturing vessel has been equipped in our ports, contrary to the rights and duties of neutrality. *Id. ib.*

611. The Courts of the United States have jurisdiction of Admiralty. captures made within a marine league from our shore, calcu- Territorial ju- lating from low water mark; but shoals covered with water, risdiction. are no part of the coast or shore. *Soult v. L'Africaine*—Bee, Neutrals. 204, District court S. C. 1804.

612. The jurisdiction of a nation within its own territory, Territorial ju- is exclusive and absolute. It is susceptible of no limitation risdiction. not imposed on itself. Any restriction, deriving its validity Neutrals. from an external source, would imply a diminution of its sovereignty to the extent of that restriction, and an investment of that sovereignty, to the same extent, in that power which could impose such restriction. All exceptions to the full and complete power of the nation within its own territories must be traced up to the consent of the nation itself. *The Exchange v. McFaddon*—7 Cranch, 116-136, Sup. court United States, 1813.

- Territorial jurisdiction.** **Law of nations.** **Neutrals.** 613. A nation would be justly considered as violating its faith, although not expressly plighted, which should suddenly, and without previous notice, exercise its territorial power in a manner not consonant to the usages and received obligations of the civilized world. *Id.* 137.
- id.** 614. The full and absolute territorial jurisdiction being alike the attribute of every sovereignty, and being incapable of conferring extra territorial power, does not contemplate foreign sovereigns, nor their sovereign rights, as its objects. One sovereign can be supposed to enter a foreign territory, only under an express license, or in the confidence that the immunities belonging to his independent sovereign station, though not expressly stipulated, are reserved by implication, and will be extended to him. *Ibid.*
- Foreign territory.** **Law of nations.** 615. A sovereign entering a foreign territory, with the knowledge and license of its sovereign; that license, though containing no stipulation exempting his person from arrest, is universally understood to imply such stipulation. *Ibid.*
- Foreign Minister.** **Jurisdiction.** **Law of nations.** 616. A foreign minister is considered in the place of his sovereign, and, therefore, not, in point of law, within the jurisdiction of the sovereign at whose court he resides.—*Id.* 138.
- Territorial jurisdiction.** **Right of passage.** **Law of nations.** 617. When a sovereign allows the troops of a foreign prince to pass through his dominions, he waives his jurisdiction over the army to which the right of passage has been granted, without an express declaration to that effect.—*Id.* 139.
- Territorial jurisdiction.** **Law of nations.** 618. If there be no prohibition, the ports of a friendly nation are considered as open to the public ships of all powers, with whom it is at peace; and they are supposed to enter such ports, and to remain in them, under the protection of the Government of the place.—*Id.* 141.
- Territorial jurisdiction.** **Law of nations.** 619. If there be no treaty applicable to the case, and the sovereign permits his ports to remain open to the public ships of foreign friendly powers, they virtually enter by his assent. If they enter by an assent thus necessarily implied, their case cannot be distinguished from that of vessels entering by express assent.—*Id. ib.*
- Territorial jurisdiction.** 620. The implied license under which a public armed ship enters a friendly port, ought to be construed as containing an exemption from the jurisdiction of the sovereign whose territory she enters.—*Id.* 144.
- Admiralty.** **Prize.** 621. A private armed vessel of a foreign friendly power may claim the same immunities, and is as much exempted

from the jurisdiction of our courts, as if she were a national Privateer. vessel.—*L'Invincible*—1 *Wheaton*, 238, 252. *Supreme court* Jurisdiction. *United States*, 1816.

622. The real ground on which the exclusive cognizance Admiralty. of prize causes is yielded to the courts of the capturing power, Prize. is, that it results from the equality and absolute independence Jurisdiction. of sovereign states, on the one hand, and the duty to ob- Law of nations. serve uniform impartial neutrality, on the other.—*Id.* 254. Neutrals.

It is therefore immaterial, whether the *corpus* continue *sub potestate* of the capturing power or not.—*Id.* 256.

An injured neutral may receive indemnity in the courts of a captor, for an illicit capture, notwithstanding a re-capture has intervened, depriving the captor of the property seized.—*Id. ib.*

623. Every violent dispossession of property on the ocean is, *prima facie*, a maritime *tort*, as such it belongs to the Maritime *torts*. admiralty jurisdiction; but the moment it is ascertained that Admiralty. the seizure was made by a commissioned vessel of war in Prize. the exercise of belligerent rights, the courts of the neutral Jurisdiction. are ousted of jurisdiction. They may determine whether the capturing vessel was, in fact, the commissioned cruiser of a belligerent; but, that fact being ascertained, their progress is arrested.—*Id. ib.*

624. In case of a revolution in a foreign state or portion New States. of country, it rests with the government of this country to Law of nations. decide whether it is, or is not, an independent state; and until its independence is recognized by this government, the ancient state of things is supposed to remain unaltered. *Clark v. United States*—3 *Washington C. C. Reports*, 101, *C. C. Pennsylvania*, 1811.

625. On surrender by capitulation, all the property of the Capitulation. inhabitants protected by the articles, is considered by the Neutrals. law of nations, as neutral, and not subject to capture on the high seas, by the belligerent, or its allies. *Miller & al. v. The Resolution*—2 *Dallas*. 1 *Federal court of Appeals*, 1781.

626. The municipal law of one country cannot change Municipal law. the law of nations, so as to bind the subjects of another Law of nations. country. *Id. ib.*

627. The articles of the treaty with Great Britain, by Treaty. which a neutral vessel, sailing ignorantly to a blockaded British treaty. port, is to be turned away, and her cargo not confiscated, Blockade. unless contraband, or unless she shall again attempt to enter the port, but shall be permitted to depart, is a correct expo-

344 POINTS OR PRINCIPLES DECIDED IN U. S. COURTS,

- Law of nations. sition of the law of nations. *Fitzsimmons v. The Newport Insurance Company*—4 *Cranch* 185-199. *Supreme court United States*, 1808.
- Confiscation. 628. The modern usage of nations is, to abstain from confiscating the debts due to an enemy, or his property, found within the territory at the breaking out of war. This usage does not constitute a rule acting on the thing itself by its own force, but only through the sovereign power. It is a rule which the sovereign follows or abandons at his will; but unless it be abandoned, the right to the debts, and the property, is only suspended during the war, and revives with the return of peace. *Brown v. United States*—8 *Cranch*, 110. *Supreme Court United States*, 1814.
- Law of nations Admiralty. 629. The law of prize is part of the law of nations. Prize. The trade may be hostile, whatever may be the character of Law of nations. the trader. It may not only consist in negotiation and contract, but in intercourse with the enemy, inconsistent with a Treaty with Enemy. state of hostility. *The Rapid*—8 *Cranch*, 155. *Supreme Court United States*, 1814.
- Neutrals. 630. The flag does not, by the law of nations, protect the Prize. cargo. *The Neriede*—9 *Cranch*, 388, *Sup. court*, U. S., 1815. Law of nations. Search. 631. The right of search grows out of, and is auxillary to the greater right of capture. *Id. ib.*
- War. 632. The assumption of the disguise of a friend or an enemy, is a lawful stratagem of war; and he who resorts to it is Disguise. not liable for the loss of the vessel occasioned by the crew, Law of nations. in consequence of the stratagem, refusing to perform their duty. *The Eleanor*—2 *Wheaton*, 345, *Sup. court*, U. S. 1817.
- Slave trade. 633. The slave trade remains lawful to the subjects of those Law of nations. governments which have not forbidden it. *The Antelope*—10 *Wheaton*, 66. *Supreme court*, U. S., 1825.
- Slave trade. 634. The slave trade, if not repugnant to the law of na- Piracy. tions, cannot be piracy unless so declared by statute, and the Law of nations. obligation of such statute cannot transcend the legislative power of the state by which it is enacted. *Id. ib.*
- Slave trade. 635. A foreign vessel, engaged in the African slave trade, Law of nations. captured on the high seas, in time of peace, by an American cruiser, and brought into the ports of the United states, will be restored even where the vessel belongs to a nation which has prohibited such trade; but the captured Africans will not be so restored without full proof of proprietary interest. *Id. ib.*
- Law of nations. 636. The law of nations, does not require that the exhibi- Sea laws. tion of a ship's national flag, at sea, should be affirmed by firing a gun. *Id. ib.*

637. Although the property may belong to a neutral, yet if engaged in a trade which can only be carried on by a hostile subject, it is liable to confiscation as the property of an enemy, although the shipment be previous to the war. *The Ann Green*—1 Gallison, 274, 289, C. C., *Massachusetts*, 1812.

Trade with
enemy
Prize.
Neutrals.

638. In time of war, property will not be permitted to change character in its transit, nor shall property consigned to become the property of the enemy, on arrival, be protected by the neutrality of the shipper. *Id. ib.*

Admiralty.
Prize
Transit.
Neutrals.

639 Every vessel, whether armed or not, has a right of self-defence against hostile attacks, and the master has a large discretion on this subject. He is not bound to attempt an escape in the first instance, and only to repel an attack when made. He is, on the other hand, at liberty to lay to, or attack the enemy ship, or chase her, if he deems that the best means of self-defence, and is not bound to wait until a direct attack is made on his own vessel; for self-defence may then be fruitless by his being crippled. *Haven et al v. Holland*—2 Mason, 230, C. C., *Massachusetts*, 1820.

Admiralty.
Self-defence.

640. If a vessel capture a hostile vessel in self-defence, she has a consequent right to take possession of the prize; and to put a crew on board, for she has a right to make her victory effectual. *Id. ib.*

Admiralty.
Prize

641. Where there is no exclusive occupation of a river or bay, the law of nations gives to the nations inhabiting the opposite sides, the right to go to the middle of the stream, calculated from low-water-mark. *The Fume*—5 Mason, 147, C. C., *Maine*, 1822.

Law of nations.
River
Boundary.

642. But although the territorial line of a nation, for the purposes of absolute jurisdiction, may not extend beyond the middle of the stream, yet the right to the use of the whole river, or bay, for the purposes of trade, navigation and passage, may be common to both nations. *Id. ib.*

Law of nations.
River.

643. The law of the place, where a contract is made, is generally speaking, the law by which the contract is expounded but the right of priority forms no part of the contract; it is rather a personal privilege dependent on the law of the place where the property lies, and where the court sits, which is to decide the cause. *Harrison v. Sterry*—5 Cranch, 289, 298, *Supreme court, United States*, 1809.

Lex loci.
Foreign laws.

644. In the administration of the estate of a deceased person, the assets are always distributed according to the dignity of the debt as regulated by the laws of the country where

Lex loci.
Foreign laws.

Administration: the representative of the deceased acts. and from which he derives his powers; not by the law of the country where the contract was made. *Id.*, 299.

Lex loci. 645 In an action by the endorsee against the endorser of a foreign bill of exchange, the defendant is liable for damages according to the law of the place where the bill was endorsed. *Slacum v. Pomeroy*—6 *Cranch*, 221, *Sup. court U. S.*, 1810.

Foreign laws.
Bills of exchange.
Lex loci. 646 The title to land can be acquired and lost only in the manner prescribed by the law of the place, where such land is situated. *United States v. Crosby*—7 *Cranch*, *Supreme C. U. S.*, 1812. *Clark v. Graham*—6 *Wheaton*, 577, *Supreme court. U. S.*, 1821. *Robinson v. Campbell*—3 *Wheaton*, 212, *Supreme court, United States*, 1818. *Kerr v. Moor's devisees*—9 *Wheaton*, 565. *Supreme court, United States*, 1824. *McOrnich v. Sullivan*—10 *Wheaton*, 192, *Supreme court United States*, 1825. *Darby's lessee v. Mayer*—10 *Wheaton*, 465.

Bankrupt laws. 647. A discharge under a foreign bankrupt law is no bar to an action in the courts of this country, on a contract made here. *McMillan v. McNeill*—4 *Wheaton*, 209, *Supreme court, United States*, 1819.

Lex loci. 648. A person claiming under a will proved in one state cannot intermeddle with, or sue for, the personal or real effects of a testator in another state, unless the will be proved and letters testamentary be obtained in that other state, or unless he be permitted to do so by some law of that other state. *Kerr v. Moore's devisees*—9 *Wheaton*, 565, *Supreme court U. S.*, 1824.

Foreign laws. 649. In a contract for the loan of money, the law of the case where the contract was made, is to govern, and it is immaterial that the loan was to be secured by a mortgage on lands in another state. *De Wolf v. Johnson*—10 *Wheaton*, 367, *S. court United States*, 1825.

Foreign laws. 650. Independent of the constitution of the United States, a discharge under the laws of a state may perhaps be a good bar, even as to foreign contracts of an action brought in the courts of that state; because the courts are bound by such laws, and the party seeking remedy in such courts must do it according to the laws of such state. *Babcock v. Weston*—1 *Gullison*, 168, *C. C., Rhode I. land*, 1812.

Bankrupt.
Lex loci. 651. So also in case of a contract made in a state between citizens of that state, a discharge, good by its laws, may be good every where. The general rule is, that a contract is governed as to its construction and efficacy, by the law of the place where it is made, and a discharge, good there, would

be sufficient in every jurisdiction. But this rule does not extend to support a bar to the contract where such bar happens to be good, merely by the law of the place, where the action is brought, and the party is found, unless the courts within that state, where the remedy is sought, are exclusively bound by its regulations. *Id. ib.*

Bankrupt.

652. The discharge of an insolvent, under the laws of one of these United States, is no discharge of a contract made, and to be executed, in a foreign country. *Van Reimsdyk v. Kane et al*—1 *Gallison*, 371, C. C. *Rhode Island*, 1812.

Foreign laws.
Lex loci.
Bankrupt.

653. Upon a foreign contract, between foreigners, the remedy in a suit in this country, must be such as the court can judicially give, according to its course of practice, and the laws of this country, although a different and more specific remedy might have been had in the courts of the country where the contract was made. *Courtois v. Carpentier*—1 *Washington Circuit Court Reports*, 376. C. C. *Pennsylvania* 1806.

Foreign laws.

Lex loci.

654. Interest is to be given according to the laws of the place of contract. *Cowqua v. Landerbrun*—1 *Washington Circuit Court Reports*, 521. C. C. *Pennsylvania*, 1806.

Foreign laws.
Lex loci.

655. The law of the place of contract, is the law of the contract, as well as of its discharge. The laws of a country cannot operate upon persons not within the jurisdiction of the country, nor upon contracts made and to be executed in another country. *Green v. Sarmiento*—3 *Washington's Circuit court Reports*, 17. C. C. *Pennsylvania*, 1811.

Lex loci.

Foreign laws.

Bankrupt.

656. The laws of a foreign country, where a contract is made, will be regarded by the tribunals of another country; and so will the same laws which discharge the debtor from the obligations of his contract—But as to the mere forms of proceedings, the laws of the country, to whose tribunals the appeal is made, must govern. *Webster v. Massey*—2 *Washington's Circuit court Reports*, 157. C. C. *Pennsylvania*, 1808.

Foreign laws.

Lex loci.

Bankrupt:

657. A commission of Bankruptcy, issued in England, cannot affect the operation of the attachment law of one of these United States. *Harrison v. Sterry & al. Bee*, 244. *District court South Carolina*, 1807.

Foreign laws.

Lex loci.

Bankrupt.

658. When a voyage ends in a foreign country, or is broken up there, and no treaty or compact designates the mode of proceeding, suits may be prosecuted there; and the determination should be according to the law of the country to

Foreign laws.

Lex loci.

which the vessel belongs. *Thompson & al. v. The Catharine*—1 *Peter's Admiralty Decisions*, 104. *District court Pennsylvania*, 1795.

Mariners. 659. Seamen, by the laws and usages of all countries, belong to the nation. In other countries, the courts would assist our consuls in restoring American seamen to their own country, and our courts should perform the same good office towards foreign Consuls, endeavouring to send home their seamen from this country; always under the superintendance of the courts, to see that no hardship or imposition is practised on the seamen. *Robinson & al. v. The Cacique*. *District court Pennsylvania*, 1823. *Coxe's Digest. Tit. Mariner*, § 159.

Admiralty. 660. A capture made by a vessel, owned and fitted out in a neutral country, is unlawful; and the captured vessel will be restored by the courts of the neutral nation. *La Conception*—6 *Wheaton*, 235, *Supreme court, U. S.*, 1821. *The Fanny*—9 *Wheaton*, 658. *Supreme court, U. S.* 1824.

Admiralty. 661. A neutral nation may, if so disposed, without a breach of neutrality, grant permission to both belligerents to equip their vessels of war within her territories. But without such permission, the subjects of such belligerent powers have no such right; and such unauthorised acts violate the sovereignty and rights of such neutral nations. All captures made by means of such equipments are illegal, in relation to such nation; and it is competent for her courts to punish the offenders, and, in case the prizes are brought *infra præsidia*, to order them to be restored.

If such equipment be by taking persons on board in the neutral port, it is immaterial whether they are subjects of the neutral nation, or foreigners domiciled therein. Neither the law of nations, nor the laws of the United States recognize any distinction, except in respect to the subjects of the state, in whose service they are enlisted, transiently within the neutral country. *The Alerta v. Blas Moran*—9 *Cranch*, 359, *Supreme court, U. S.*, 1815.

War. 662. A neutral may lawfully put his goods on board of a belligerent ship for transportation, and the hostile character of the vessel will not condemn the goods. *The Nereide*—9 *Cranch*, 388, *Supreme court, U. S.* 1815.

War. 663. The neutral carrier of enemy-goods, captured and condemned, is entitled to his freight, if his conduct be fair and not unneutral, and the goods be not contraband, and he, be not carrying on a colonial trade of the enemy, not open to

Neutrals.
Freight.

him in time of peace; and if he be not guilty of spoliation of papers, or carrying dispatches to the enemy, or engaging in the transport service of the enemy, or breaking blockade, &c. *The Commercen*—1 *Wheaton*, 382, *Supreme court*, U. S. 1816.

Admiralty.
Prize.

664. In cases of violation of our neutrality by any of the belligerents, if the prize come voluntarily within our territory, it is restored to the original owners by our courts; but their jurisdiction for this purpose, under the law of nations, extends only to the restitution of the specific property, with costs and expenses during the pendency of the suit, and does not extend to the infliction of vindictive damages, as in ordinary cases of marine tort. *La Amistad de Ruus*—5 *Wheaton*, 385, *Supreme court*, U. S., 1820.

Admiralty.
Prize.
Neutral.

Jurisdiction.
Law of nations.

665. Shipments made by an enemy's house, on account and risk, exclusively and *bonâ fide*, of a neutral partner, or house, are not subject to confiscation as prize of war. *The San Jose Indiano*—2 *Gallison*, 268, C. C., *Mass.*, 1814.

Admiralty.
Prize.
Neutrals.
Law of nations.

666. The liberty of selling prizes, taken by a belligerent in a neutral territory, is not a perfect right, but may be regulated by the neutral government. *The William*—1 *Adm. Decisions*, 12, *District court Penn.* 1793. *Maun v. Sacks*—*Bee*, 202, *District court South Carolina*, 1804.

Admiralty.
Prize.
Neutrals.
Law of nations.

667. The rights of neutrals were not established for the benefit of belligerent parties. An invasion of these is an offence to the neutral only, and not to the belligerent. *Moxon et al v. The Fanny*—2 *Adm. Decisions*, 309, *District court Penn.* 1793.

Neutrals.
Law of nations.

668. The laws of neutrality, and of nations do not forbid neutral vessels to go to sea armed and fitted for defensive war. *British consul v. The Mermaid*—*Bee*, 69, *District court South Carolina*, 1795.

Id.
Id.

669. The commission of a privateer who seizes a vessel *animo furandi* will not protect him from the charge of piracy. *U. States v. Klintock*—5 *Wheat.* 144, *Sup. court U. S.* 1820.

Piracy.
Privateer.

670. A port of the United States captured and occupied by the enemy during the war, was not, while so occupied, a port of the United States whose sovereignty over it was by such occupation suspended;—nor was it a port within the dominions of Great Britain, for it had not permanently passed under her sovereignty. *United States v. Hayward*—2 *Gallison*, 485, C. C. *Mass.* 1813.

War.
Conquest.

671. Remitting, in satisfaction of debts, to subjects of a nation at war, is no violation of the duties of a citizen. *Miller et al. v. The Resolution*—2 *Dallas*, 1-10, *Federal court Appeals*, 1781.

Trade with
Enemy.

350 POINTS OR PRINCIPLES DECIDED IN U.S COURTS,

- Trade with
Enemy. 672. A neutral may lawfully draw a bill on a belligerent. It is not a trading with the enemy. *United States v. Barker*—1 *Paine*, 157, C. C. *New-York*. 1820.
- id. 673. All contracts with an enemy are not necessarily void. Cases of extreme necessity are excepted. So also contracts made by license of the government, ransom bonds, contracts by prisoners of war for their subsistence, &c. *The William Penn*—3 *Washington C. C. Rep.* 484, C. C. *N. J.* 1819.
- Ransom. 674. The treaty of peace of 1783, with Great Britain, was a mere recognition of pre-existing rights as to territory, and no territory was thereby acquired by way of cession from G. Britain. *Harcourt et al. v. Gaillard*—12 *Wheaton*, 523, *Sup. court United States*, 1827.
- Treaty. 675. The adoption of a treaty, with the stipulations of which the provisions of a state law are inconsistent, is equivalent to the repeal of such law. *Den ex dem, Fisher v. Hamden*—1 *Paine*, 55, C. C. *New-York*, 1812.
- Constitution. 676. Under the 2d article of the treaty with Great Britain the precincts and jurisdiction of a fort are not to be considered three miles in every direction, by analogy to the jurisdiction of a country over that portion of the sea surrounding its coasts, but they must be made out by proof. *Jackson v. Porter*—1 *Paine*, 457, C. C. *New-York*, 1825.
- Treaty. British treaty. Forts. Jurisdiction. 677. A treaty goes into operation from the date of its signature, if no other period is agreed upon between the parties. *Hylton's lessee v. Brown*—1 *Washington, C. C. Reports*, 343, C. C. *Pennsylvania*, 1806.
- Treaty. Constitution. 678. When a treaty has been ratified according to the provisions of the constitution it becomes the law of the land, and it is perfectly immaterial whether or not the persons, who signed it, did or did not transcend their instructions. *Hamilton v. Eaton*—*North Carolina cases*, 79.
- Treaty. 679. A treaty does, of necessity, annul any prior statutes so far as there is interference. *Id. ib.*
- Id. British treaty. 680. Debts due to British subjects during the revolutionary war, although paid into a state treasury under the authority of an act of the legislature, may, nevertheless be sued for and recovered after the peace. *Id. ib.*
- Treaty. Spanish treaty. 681 To bring a case within the 9th article of the treaty with Spain, so as to entitle a Spanish owner to entire restitution, free of salvage, of his property captured as prize of war at sea, by a vessel professing to be an enemy of Spain, and rescued. it is incumbent upon the party to show, that the captors were pirates and robbers. *The Tigre*—1 *Journal of Jurisprudence*, 105.
- Piracy.

682. A capture of her enemy by a belligerent vessel is legal, although she had no commission; the only effect of the want of a commission would be, that the condemnation would be to the government, and not to the captors. *Id. ib.*

Admiralty.
Prize.

Capture.

683. Under the 27th article of the treaty of amity with Great Britain, a person who has committed murder on board a British ship of war on the high seas, is to be delivered up to the government of Great Britain. *United States v. Nash alias Robbins—Bee, 266, District court South Carolina, 1799*

Treaty,
British treaty.Murder.
Fugitives.

684. Every contention by force between two nations, in external matters, under the authority of their respective governments, is not only war, but public war. If it be declared in form, it is called solemn, and is of the perfect kind. But hostilities may subsist between two nations, more confined in its nature and extent, being limited as to places, persons and things: and this is more properly termed imperfect war, because not solemn; and because those who are authorised to commit hostilities, act under special authority, and can go no further than to the extent of their commission; still, however, it is public war. *Bas v. Tingey—4 Dallas, 37, Supreme court United States, 1800.*

War.

Public war.

685. The object of the treaty with Spain, which ceded Florida to the United States, dated 22d May, 1819, was to invest the commissioners with full power and authority to receive, examine, and decide upon the amount and validity of asserted claims, by citizens of the United States upon Spain, and it is wholly immaterial who is the legal or equitable owner of the claim, provided he is an American citizen. The decision of the commissioners, within the scope of their authority is conclusive. A rejected claim cannot be again brought under review in any judicial tribunal. After the validity and amount of the claim has been ascertained by the award of the commissioners, the rights of the claimant to the fund which has passed into his hands, and those of others, are left to the ordinary course of judicial proceedings in the established courts of justice.

Treaty.

Spanish treaty.

That treaty recognized an existing right, in the aggrieved parties, to compensation; and did not in the most remote degree turn upon the notion of donation, or gratuity. It was demanded by our government as matter of right, and as such was granted by Spain. *Comegys et al. v. Vasse—1 Peters, 212, Sup. court United States, 1828.*

686. The constitution of the United States confers, absolutely, on the government of the Union, the power of making

War.

Treaty.

Conquest.

Allegiance.

352 POINTS AND PRINCIPLES DECIDED IN U. S. COURTS,

War.
Treaty.
Conquest.
Allegiance.

war and of making treaties. Consequently that Government possesses the power of acquiring territory, either by conquest or by treaty.

The usage of the world is, if a nation be not entirely subdued, to consider the holding of conquered territory as a mere military occupation, until its fate shall be determined at the treaty of peace. If it be ceded by treaty the acquisition is confirmed, and the ceded territory becomes a part of the nation to which it is annexed, either on the terms stipulated in the treaty of cession, or on such as its new master shall impose. On such transfer of territory, it has never been held that the relations of the inhabitants to each other undergo any change. Their relations with their former sovereign are dissolved, and new relations are created between them and the government which has acquired their territory. The same act which transfers their country, transfers the allegiance of those who remain in it, and the law which is denominated political, is necessarily changed, although that which regulates the intercourse and general conduct of individuals remains in force until altered by the newly created power of the state. *The Amer In Co. v. 356 bales of cotton. 1 Peters, 542. Sup. court, U. S. 1828.*

High seas.

Jurisdiction.

687. The words "High seas" in the act of Congress of 1825 ch. 276. §. 22, for the punishment of assault with intent to kill, upon the high seas, mean the uninclosed water of the ocean on the sea coast. outside of the *fauces terræ*. The state courts have jurisdiction of offences committed on arms of the sea, creeks, havens, basins and bays within the ebb and flow of the tide, when those places are within the body of a county; and in such cases the courts of the United States have no jurisdiction under that statute. *U. S. v. Grush—5 Mason 290. C. C. Mass. 1829.*

Foreign laws.

Lex loci.
Bankrupt.

688. The distinction between the *obligation* of contracts, and the *mode* of applying remedies thereto, is well established. The former is universally recognized according to the place where the contract is made; the latter is bounded by the territorial limits. The effect of a discharge of the person from imprisonment, by the insolvent law of the state where the contract was made, is purely local; and if the debtor be sued in the courts of another state the judgement must be general, and not merely against the estate or effects of the debtor.—*Titus v. Hobart—5 Mason, 378. C. C. Mass. 1829.*

Ship.

Vessel.

Domicil.

689. An open boat is not a "ship or vessel" within the purview of the statutes of 1820, ch. 122, and 1823, ch. 150, which prohibit commercial intercourse from the British Colonies; but

such open boat may visit the United States, if not destined for trade. The prohibition extends only to ships or vessels owned by British subjects, *having a British domicil.* *U. S. v. An open boat*—5 *Mason*, 120. *C. C. Maine*, 1828. Non-intercourse.

690. The Circuit Courts of the United States have not jurisdiction of a suit brought by an Alien against a citizen of the United States resident abroad, and not having any inhabitancy in any State in the Union, although he may have property, within the district, liable to attachment. *Piquot v Swann*—5 *Mason*, 35. *C. C. Mass.* 1828. Alien. Jurisdiction.

691. It is no breach of our neutrality, to suffer a belligerent to sell his prizes in our port, provided the permission be equally extended to both belligerents; nor can the purchaser legally refuse to pay the purchase money upon the ground that the sale was made by the captor, in fraud of the laws of his own country, in which fraud the purchaser himself was a partaker. *Hopner v Appleby*—5 *Mason*, 71. *C. C. Rhode Island*, 1828. Admiralty. Prize. Neutrals.

692. The notion, so commonly entertained, that a master of a ship or vessel may, at his pleasure, for slight offences imprison his seamen in a foreign gaol, is utterly unfounded in law; and they are criminally liable for such wanton abuses of authority. Cases of flagrant offences only can justify such imprisonment; and only where there is a positive necessity for the removal of the offending party from the ship to some place of safety on shore. *U. S. v. Ruggles*—5 *Mason*, 192. *C. C. Rhode Island*, 1828. Mariners.

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A CONCISE

DIPLOMATIC MANUAL.

AUTHORITIES
FROM
THE LAW OF NATIONS,
AND OTHER SOURCES,
TOUCHING MATTERS IN REFERENCE TO THE DIPLOMATIC
CHARACTER
OF A
Public Minister,
AND HIS OFFICIAL DUTIES.

CHAP. I. *Of the Rights of Embassy.*

[From Martens' Law of Nations.]

SECT. 1. However simple a negotiation may be, it would be very difficult, now-a-days, to bring it to a conclusion by a written correspondence between the sovereigns. A verbal communication is absolutely necessary; and, as it would be impossible for sovereigns to negotiate, themselves, they must commission others, furnished with instructions and full powers, to do it in their stead. Hence the origin of embassies.

SECT. 2. *Of a Public Minister.* By *Public Minister* is commonly meant, the person whom the state has charged with its public affairs: in a more particular sense, the person who is at the head of some department of the government; and, in a still more confined sense, the person whom the sovereign has appointed to superintend his affairs at some foreign court. This last sort of minister (Ambassador in a general sense, *Legatus*) is that of which we are to speak here. The sending of this sort of ministers being a necessary means of treating of state affairs, the right to send them becomes one of the natural rights of sovereignty. These ministers are now employed, not only to negotiate the affairs of the sovereign by whom they are sent, (though all their rights are grounded upon their acting in that capacity,) but on points of ceremony also; and, since the introduction of perpetual embassies, sometimes the principal business of such a minister is to watch over the interests of his master, and give him an exact account of every thing that passes, and of which it imports him to be informed. Whatever difference a rigorous attention to theory might make, as to prerogatives, &c. between negotiators and other ministers, in the practice, the same prerogatives that are enjoyed by negotiators, are also enjoyed by embassies of ceremony, perpetual embassies, and embassies in ordinary.

SECT. 3. *Of the right of sending Ministers.* The primitive and principal object of sending embassies proves clearly, 1. That the right of sending ministers, belongs to all those states, which have a right to treat with foreign powers in their own name. Consequently, all states that are entirely free (notwithstanding vassalage, protection, and tribute), as well as all the demi-sovereign states, that have the right of making war and peace, and of forming foreign alliances, have a right to send ministers to foreign courts. Hence it comes that the states of the Empire, as well as many other demi-sovereign states, enjoy this right. 2. In monarchies this right may belong solely to the sovereign, or it may so happen that the state participates in it. This depends on the internal constitution of each state in particular. But, 3. No subject part of a state, no person, however distinguished by his rank and dignities, that has not a right to treat with foreign nations in his own name, has a right to send embassies. In the communications between sovereigns and their subjects, the former sends commissaries and the latter deputies; but neither of the two have the prerogatives of ministers. The latter have them not, for want of authority in those by whom they are sent, and the former, for want of the consent of the sovereign; and, besides, neither of them stand in need of such prerogatives. 4. A sovereign may, however, authorize other persons to exercise the rights of appointing embassies in his name; thus, the princes of the blood, governors of provinces, vice-roys, generals, and even ministers, send persons vested with the character, essential rights, and authority of ministers.

SECT. 4. The right of sending ministers making part of the rights of sovereignty, it returns, in case of a vacancy of the throne, into the hands of the people, or of those who are authorised to exercise the sovereign power in the *interim*. A sovereign who abdicates his crown, loses with it his right of sending ministers; but the simple loss of possession, when involuntary, does not always carry in it the loss of right. A prince, by being held in captivity, or by being driven from his throne, or even from his dominions, does not, on that account, lose at once the right of sending ministers; neither does he who has usurped his throne, or power, acquire this right by his mere momentary possession. It is the justice or injustice of the cause that ought principally to decide, which of the two is entitled to exercise this right. The conduct of foreign powers on such occasions ought to be conformable to what has been already said, with respect to the acknowledgement of general sovereignty.

SECT. 5. *Of the right of receiving Ministers.* Those, and those only, who have a right to send ministers, have a right to receive them. They may even be obliged, *imperfectly*, to receive them, or at least not to refuse them. But, except in the case of treaties, no state is under a *perfect* obligation to receive them, and still less to permit their constant residence at its

court. Every sovereign may, then, dictate the conditions on which he will receive them, and fix the manner of their reception. Nevertheless, 1. A refusal to receive ministers would be attended with serious consequences; 2. Once admitted, there are certain rights which are perfectly their due; 3. There are others, which are so well established by custom, that they cannot now be refused; 4. There are many rights, particularly those belonging to the ceremonial, concerning which, one court differs from another; and, indeed, generally speaking, the positive rights of a foreign minister depend, in great part, on treaties, and on law; all the rest are founded on custom.

6. *Of the Origin of the different Orders.* The universal law of nations acknowledges but one order of ministers. It considers them all as public mandatories of the state which they represent, as far as relates to the business with which they are charged, and entitled to the rights essential to that quality, and to no other rights whatever. But the modern law of nations has established several orders of public ministers, or ambassadors, which differ essentially in whatever concerns the ceremonial.

Formerly there was but one class of public ministers, who were all called Ambassadors. On their private affairs sovereigns sometimes sent agents; and on missions of ceremony, or of little importance, they sent gentlemen of birth, but neither of these enjoyed the rights, or were honored with the ceremonial, due to ministers. In the fifteenth century ministers began to be received as the representatives of their sovereigns; but the disputes resulting from their rights in that capacity, and the expense, which became more considerable, as the perpetual embassies grew more customary, gave rise to an order of ministers under the title of Residents, much inferior to ministers representing their sovereigns. These latter now took, exclusively, the title of Ambassadors. Residents were considered as above agents, even when the latter were charged with affairs of state. These agents were afterwards called *Chargés des Affaires*, and the title of agent sunk into disuse, except for those who were charged with the private affairs of the sovereign only, or as a mere empty title.

In time it became customary to grant to the gentlemen of birth, a certain ceremonial, which, though very vague in the beginning, sometimes came nearly to that of Ambassadors, but oftener resembled the ceremonial of residents. The custom of the present century has raised them above residents, and they now form a separate order, between ambassadors and residents, called *Envoys*. Many causes gave rise to a multiplication of the qualities of ministers, particularly of the second and third orders: Ministers Plenipotentiary, Ministers, Ministers Resident, Residents, Ministers Chargés d'Affaires.

7. *Of Ministers of the First Order.* Being the representative of the sovereign forms the characteristic mark of ministers of the first order, among which are, 1. The Cardinal Legates, the Nuncios of the Pope, Ambassadors properly so called, the Bailo of Venice and Constantinople. The Nuncios and Ambassadors are divided into ordinary and extraordinary. This division served originally to distinguish perpetual ambassadors, from such as were sent on some particular business; but, at present, there are perpetual Ambassadors, who are also vested with the more distinguished character of extraordinary.

With respect to precedence,* 1. The character of representative, which is common to them all, raises all the ministers of the first order above those of an inferior order, without respect to the rank or dignity of the states they are sent from. 2. Among the ministers of the first order, the Cardinal Legates and the Nuncios of the Pope, take the lead of all the Ambassadors of Catholic states; but those of Protestant states do not yield to them in this point. 3. The extraordinary Ambassador takes the lead of the Ambassador in ordinary, when they are both from the same state; but, 4. Among Ambassadors of different courts, no regard is paid to this distinction; they all claim a right to *precedence*, or yield it to others, as it is claimed or yielded by their sovereigns.

8. *Of the Ministers of the Second Order.* Ministers of the inferior orders are not looked upon as the representatives of their sovereign. They do represent him, however, with respect to the affairs they are sent to transact in his name; and even with regard to precedence among themselves; so that they ought to be looked upon as representatives in an inferior degree. Again, though the manner of representation is the same among ministers of the inferior orders, yet, the degree of dignity with which they are vested by their sovereign, and the honors by which they are commonly distinguished, has given rise to the division of them into ministers of the *second* and *third* order.

Among ministers of the second order are, the Envoys, the Ministers Plenipotentiary, the Inter Nuncios of the Pope, and the Emperor. With respect to precedence, there is no distinction made between Envoys and Plenipotentiaries. Every one claims what is due to him according to the rank of his sovereign.

9. *Of Ministers of the Third Order.* The third order of ministers is composed of Ministers Resident, Residents and Ministers Chargés d'Affaires. Now-a-days, the ceremonial, almost everywhere, of ministers of the third order, differs greatly from that of ministers of the second order. The former yield to the latter in points of precedence, claiming among themselves the rank that is due according to the dignity, &c. of their sovereigns.

*See "Precedence."

It seems that we ought to reckon among the ministers of the third order, the simple Chargés des Affaires, as well as those who are appointed *per interim*, as those who are permanent. They have not, however, the title of ministers, and are generally introduced and admitted through a verbal presentation of the minister, at his departure, or through letters of credence addressed to the minister of state of the court to which they are sent. The ceremonial observed towards them is very arbitrary. They have the essential rights of ministers, and do not yield the precedence to ministers, residents, &c., if their court does not yield in this point. *Martens*.

10. *Deputies and Commissioners*. Sometimes the name of *Deputies* is given to ministers sent to congress, or accredited on the part of an assembly of states, or of a corporation; and the title of *commissioners*, to those sent by powers in order to regulate limits, terminate differences of jurisdiction, or to put in execution some article of a treaty or convention. These titles can neither confer nor take away from them the prerogatives and immunities of ministers; they possess ordinarily those granted to ministers of the second or third order. All however, depends on the question, to what point the constituent has been able and willing to confer on them a ministerial character. *Martens' Manual*.

11. *Agents*. Mere Agents charged with the particular private affairs of a state or sovereign, although they may be invested with the title of *Resident*, *Counsellors of Legation*, or any other, cannot pretend to the rights of a diplomatic agent, much less to the prerogatives, immunities, or ceremonial of public ministers.

Privileges granted to them sometimes by states less powerful [feeble states] suffice not to form a rule. Besides, such agents are never the bearers of credentials, but merely of *letters of Provision*, or even of recommendation. *ib*.

12. *Of the Right of sending Ministers*. The right of *sending* ministers may be possessed in part. Either a state may have a right to send ministers of all the orders, or of some only. All the crowned heads, the Republic of Venice, the United Provinces, the Swiss Cantons, and to some courts Genoa and the Order of Malta, possess the right of sending ministers of the first order. The states of the empire have prevailed on the Emperor to grant them the right of an embassy of the first order, and, as far as relates to their ministers sent to the Diet, it is granted them by all the foreign states. They demand it from all the courts of Europe, in alledging many acts of possession in their favor, and, after their example, the German Princes demand the same; but neither have been able, as yet, to obtain it. They, as well as the other sovereign and demi-sovereign states, send ministers of the second and third order. Ministers of the first are seldom sent to courts from whence ministers of the same order are not received. *Martens' Law of Nations*.

372 MINISTERS RECEIVED FROM, OR SENT TO, USURPERS.

13. *Whether Ministers may be received from, or sent to, an Usurper.* It will be proper to examine a question, famous for being often debated, whether foreign nations may receive ambassadors and other ministers of an usurper, and send such ministers to him. Here foreign powers, if the advantage of their affairs invites them to it, follow possession: there is no rule more certain, or more agreeable to the law of nations, and the independency of them. As foreigners have no right to interfere in the domestic concerns of a people, they are not obliged to canvass and inspect its economy in those particulars, or to weigh either the justice or injustice of them. They may, if they think proper, suppose the right to be annexed to the possession. When a nation has expelled its sovereign, the other powers which are not willing to declare against it, and would not draw on themselves, its arms or enmity, consider that nation as a free and sovereign state, without taking on themselves to determine whether it has acted justly in withdrawing from the allegiance of subjects and dethroning the prince. Cardinal Mazarine received Lockhart, who had been sent as ambassador from the republic of England, and would neither see king Charles the Second, nor his ministers. If a nation, after driving out its prince, submits to another, or changes the order of succession, and acknowledges a sovereign to the prejudice of the natural and appointed heir, foreign powers may here likewise consider what has been done as legal; it is no quarrel or business of theirs. At the beginning of the last century, Charles duke of Sudermania having obtained the crown of Sweden, to the prejudice of Sigismund, king of Poland, his nephew, was soon acknowledged by most sovereigns. *Villeroy*, minister of Henry the IVth, king of France, at that court, in a memoir of the 8th of April, 1608, plainly said to the president Jeannin, *All these reasons and considerations shall not hinder the king from treating with Charles, if he finds it to be his interest, and that of his kingdom.*

This was arguing sensibly. The king of France was neither the judge nor the guardian of the Swedish nation, that he should, against the good of his own kingdom, refuse to acknowledge the king which Sweden had chosen, under pretence that a competitor termed Charles an usurper. Had it even been done with justice, it does not come under the cognizance of foreigners.

Therefore, when foreign powers have received the ministers of an usurper, and sent theirs to him, the lawful prince, on recovering his throne, cannot complain of these measures as an injury, nor justly make them the cause of a war, provided these powers have not gone farther, nor furnished any succours against him. But to acknowledge the prince dethroned, or his heir, after a solemn acknowledgement of him who fills his place, is doing wrong to the latter, and declaring against the nation who has chosen him.

Such a step which had been taken in favor of James the second son, king William the third, and the English nation, alledged as one of the principal reasons of the war which England soon after declared against France. All the blandishments, and all the protestations of Lewis XIV. were of no weight: the English accounted the acknowledgement of James' son as king of England, Scotland, and Ireland, by the title of James the Third; an outrage and injustice, both to the king and the nation. *Vattel.*

14. *Whether Usurpers, or Governors in Chief, can send Ambassadors.* It is sufficient, that the prince who causes his Ambassadors to be acknowledged, be in possession of the sovereignty: hence we may conclude, that he has been expelled by a superior force, or by the insurrection of his subjects has been obliged to withdraw, retains possession, till by a formal treaty he has renounced the countries which have been conquered or usurped from him, or till success has justified the arms of the subjects: he retains also the right of embassy, because the sovereignty remains in him. *Wicquefort.*

15. *Of the Choice between the different Orders.* A power, possessing the right of embassy in its full extent, has a right to choose with respect to the order and number of the ministers it sends. However, 1. It may be looked upon as an established custom, to send ministers of the same order and in the same number as those received. 2. There are some embassies of ceremony that are not received but in the order and number established by a particular custom. 3. Sometimes it has been insisted on as a right, to send several ambassadors to courts from whom more than one had not been refused. On the contrary, it often happens, particularly in Germany, that one minister has letters of credence to several courts at once. *Martens.*

16. *Of Choice in the Person of a Minister.* The choice of the person to be sent as minister, depends, of right, on the sovereign, who sends him; leaving the right, however, of him to whom he is sent, of refusing to acknowledge any one, to whom he has a personal dislike, or who is inadmissible, by the laws and usages of the country. *ib.*

17. *Age.* At a mature age, only, is a man qualified for an embassy. Such employs ought not to be given to young men. Cool blood for counsel, and the warm for execution. *Wicquefort.*

18. *The Prince may employ Strangers in his Embassies.* There is no being subject to two sovereigns, nor accountable for our actions to two different princes; but by taking an oath to the one, we get out of the obligation we had to the other; for there is no serving two masters, whose interest may be quite different and contrary.

It is believed that a king who judges that a sovereign has not a right to lay claim to a subject that serves in the quality of a public minister to a foreign prince in another court, would never injure in his own, a Frenchman, that should be there employed by another sovereign: as in effect it is judged,

in that kingdom, that the character carries it against birth, and that neither the civil laws, nor local customs, any more than the particular ordinances of princes, can destroy a right established by the general consent of all people.

After many examples, (Mazarine, a Sicilian, &c.) that have instances to confirm it, because that in reference to the law of nations, it is sufficient to know what is every where practised, without there being any necessity to sift scrupulously into the reason thereof.

In England, the subjects have a stronger and more particular obligation to their Sovereign than elsewhere ; by virtue of the *right* which they call *allegiance*. But that does not hinder the English from venturing out of the kingdom, without the king's permission, and when they have settled themselves there, neither the king's authority, nor the laws of the kingdom, have any farther power over them.

Since there is no being the subject of two princes, as I before observed, and that he that goes out of the place of his birth, goes at the same time out of the subjection of his own sovereign, it follows, that he enters into that of a new sovereign, whose subject being become, he is obliged to obey him, and to serve him even against the person of him who was his sovereign; but being so no longer cannot desire of him any duties to the prejudice of the last; and consequently, he cannot hinder him from discharging the functions of Ambassador, nor from enjoying all the advantages and prerogatives that are dependant thereon. *Wicquefort*.

19. *Of the Despatch of the Diplomatic Agent, and of the Establishment of his Public Character.* All that relates to the despatch [or outfit, or mission] of the diplomatic agent, and to his public character, is comprised under three heads: 1. The Credentials. 2. The Instructions. 3. The Plenipotence, [or full powers.]

20. *Of the Credentials.* In order to be received in the character of diplomatic agent by the state to which he is sent, and to enjoy the privileges and honors attached to his rank, and which are recognised by the law of nations, he is to be furnished with credentials.

This document from the sovereign by whom he is sent, addressed to the powers by whom he is to be accredited, confirms the general object of the mission, which ordinarily consists in the keeping up of a mutual good understanding.

The declaration of these motives appears in the document, and is expressed in terms obliging, and suitable to the relations subsisting between the two courts; with regard, also, to the ceremonial, as well as to the mutual connexions of interest and friendship.

After this introduction the minister is named in designating the quality with which he is invested, and in praying the sovereign to whom he is sent to place confidence [*ajouter foi*] in whatever he shall say, on the part of his court.

If the minister is charged with any particular business, mention is made of it, but only in general terms; and the letter concludes with assurances of friendship, which vary according to the different relations which subsist between the two sovereigns, and the degree of honor which they reciprocally accord each other.

In order that the sovereign to whom the credential letters are addressed may be aware of their contents before they are transmitted to him by the foreign minister, and to enable him to decide upon the admission of such minister, as well as upon the ceremonial to be observed towards him, it is usual either to forward him the letters under a flying seal [*cachet volant*] or to expedite from the department of state, besides the original with the royal signature and the great seal, a legalized copy which the diplomatic agent forwards, immediately on his arrival, to the minister for foreign affairs, demanding an audience of the sovereign in order to exhibit the original.

Although credential letters for ministers of the first class are usually expedited, in form of letters of ceremony or of chancery, they would not however, be less available were they prepared in form of cabinet letters [*lettres de cabinet*] which form is at present most used by sovereigns for ministers of the second and third class.

The powers of the minister, according to WICQUEFORT, ceases either, on the death of the prince whom he serves, or on the demise of the prince near whose court he resides.

It is therefore necessary that he be accredited anew (which frequently happens,) in the first case, by the mere letter of notification, which the successor writes to the sovereign, near whom his minister resides, of the death of his predecessor.

In the second case, the non-remittance of new credentials would induce the supposition, that the new sovereign would not be recognised by the prince whom the minister represents.

One letter of credential may suffice for two ministers sent at the same time, if they be of the same order, as one minister may be charged with several credentials when he is accredited near several courts at once, or near one prince, but in various qualities.

It is seldom that an answer is given to a letter of credential, as in order to take such steps the sovereign must have particular motives, such as the choice of the minister sent to him, or that he regards his mission as a particular mark of esteem and friendship.

We must not confound letters of credentials with simple letters of recommendation, of which the minister is sometimes bearer, and which are addressed by his sovereign to princes or princesses of the family, or to one of the principal functionaries of the sovereign near whom he is accredited, or finally, to the magistrate of the place where he shall fix his residence.

21. *Ceremony of Reception*, on presenting a letter of credence at the Court of London. The master of ceremonies advanced with me to the door. Opening it, he left me. I entered alone. The Prince was standing, with Lord Castlereagh [Secretary of State for Foreign Affairs] by him. Holding in my hand the letter of credence, I approached, and said, that it was, "From the President of the United States, appointing me their envoy extraordinary and minister plenipotentiary at the court of his royal highness; and that I had been directed by the President to say that I could in no way better serve the United States, or gain his approbation, than by using all my endeavors to strengthen and prolong the good understanding that happily subsisted between the two countries." The Prince took the letter, and handed it to Lord Castlereagh. He then said, that he would "Ever be ready on his part to act upon the sentiments I had expressed: that I might assure the President of this; for that he sincerely desired to keep up and improve the friendly relations subsisting between the two nations, which he regarded as so much to the advantage of both. I replied, that I would not fail to do so. *Rush's Memoranda.*

22. When it [the ceremony of reception] was over, I called upon each member of the royal family: a mark of respect omitted by no foreign minister after being received by the sovereign. The call is made by inscribing your name in books kept at their several residences. *ib.*

23. Under the federal constitution, the form of receiving and accrediting public ministers, is exceedingly simple: the individual is presented by the Secretary of State to the President in his House, (without any other ceremony than takes place on the occasion of a common visit) when his credentials are examined. The constitution directs the President to "receive ambassadors and other public ministers," but this government does not make the distinction, which, we believe, is maintained by the European states in relation to agents of the rank of Chargé d'Affaires, and under, who are accredited only by the Secretary, or Minister of Foreign Relations; whereas all public officers, above the rank of Chargé, are accredited by the sovereign in person. *Lyman's Diplomacy.*

24. When a Minister goes to a foreign Government, he presents his *credentials* to the head of the Government, accompanied by a speech, if he thinks proper—but this latter is discretionary. This, however, is not strictly a public address. Whenever, afterwards, any interchange of letters become necessary, an audience is demanded of the Minister for the purpose of presenting the letter, &c. There is one other occasion when a Minister has the right to present an address. If he thinks that that Minister of the Government, who holds diplomatic intercourse with him, is actuated by an unfriendly disposition, and manifests it, by unfair and improper treatment, he may demand an audience, and make his appeal to the head of the Government. *Forsyth's Speech, in House of Rep.'s, April 3, 1826.*

25. *Letters of Credence* are, for the most part, despatched out of the chancery; that is to say, they are sealed with the small seal or signet, and countersigned by a secretary of state, or by some other minister who discharges that function. However, that is not absolutely necessary; as well because in Germany and other places, where the princes sign the despatches themselves, they very rarely let them be countersigned, as because, it depends on the prince to whom the minister is sent, to content himself with the form that is given them: and he may have the same consideration for a letter of the cabinet, as for a chancery despatch. *Wicquefort.*

26. *Form of a Letter of Credence:*

“ [ANDREW JACKSON] *President of the United States of America, to [His Majesty the King of the United Kingdom of Great Britain and Ireland] Great and good Friend. I have made choice of [LOUIS McLANE] to reside near [Your Majesty] in quality of Envoy Extraordinary and Minister Plenipotentiary of the United States of America. He is well informed of the relative interests of the two countries, and of our sincere desire to cultivate and strengthen the friendship and good correspondence between us; and from a knowledge of his fidelity, probity, and good conduct, I have entire confidence that he will render himself acceptable to [Your Majesty] by his constant endeavors to preserve and advance the interests and happiness of both nations. I, therefore, request [Your Majesty] to receive him favorably, and to give full credence to whatever he shall say on the part of the United States; and most of all, when he shall assure you of their friendship, and wishes for your prosperity; and I pray God to have [Your Majesty] in his safe and holy keeping.*

“ *Written at the City of Washington, [the — day of —, Anno Domini, one thousand eight hundred and thirty—.] By Your good Friend [ANDREW JACKSON.]*

“ [EDWARD LIVINGSTON,] *Secretary of State.*”

27. *The Credentials* of diplomatic agents, of the class of Chargé d’Affaires, are to the secretary of state for foreign affairs, not the sovereign. *Rush’s Memoranda.*

28. Having brought from my government a *Letter of Credence* to the Queen, I was presented to her. It was called a private presentation, and took place at Buckingham palace. An exchange of notes with the master of ceremonies, had made me acquainted with the previous arrangements. He conducted me to the audience room, which I entered alone. Immediately before me was the Queen. On her right, was one of the princesses, her daughter, &c. All were in full court dresses, and all standing. Approaching the Queen, I said—“Having been accredited by his royal highness, the Prince Regent, as Envoy Extraordinary and minister Plenipotentiary from the United States, I have now the honor to present this letter to your majesty. In executing the duties of my mission, I have it in charge from the President so to bear myself, as to give hope of gaining your majesty’s esteem; and this I beg to assure your majesty will be my constant ambition.” She received the letter. As she took it, she said, that the sentiments I expressed were very obliging; and entered into conversation. *Rush’s Memoranda.*

NOTES. Franklin and his colleagues went to court in a public manner. They were presented by Count de Vergennes to the King, who received them graciously; they were afterwards presented to the Queen, to Monsieur, then Count de Provence, and to all the royal family, then at Versailles. They were afterwards introduced to the Count de Maurepas, first minister, &c.—Dr. Franklin was presented to the King in the gallery of Versailles, by the Count de Vergennes, Minister for Foreign Affairs. His age, his venerable appearance, the simplicity of his dress on such an occasion, every thing that was either singular or respectable in the life of this American, contributed to augment the public attention. Clapping of hands, and a variety of other demonstrations of joy, announced that warmth of affection, of which the French are more susceptible than any other people, and of which their politeness and civility augments the charm to him, who is the object of it.

His Majesty addressed him as follows :

“ ‘ You may assure the United States of America of my friendship. I beg leave also to observe that I am exceedingly satisfied in particular with your own conduct during your residence in my kingdom.’—When the new ambassador after this audience, crossed the court in order to repair to the office of the Minister of Foreign Affairs, the multitude waited for him in the passage, and hailed him with their acclamations.”*

Ceremonial of reception of M. Gerard, appointed by his Christian Majesty Minister Plenipotentiary to the United States in the beginning of the year '78; and of the address made by the President.

“ In pursuance of the ceremonial established by Congress, the Hon. Richard Henry Lee, Esq. one of the delegates from Virginia, and the Hon. Samuel Adams, Esq. one of the delegates from Massachusetts Bay, in a coach and six provided by Congress, waited upon the minister at his house. In a few minutes, the Minister and the two delegates entered the coach, Mr. Lee placing himself at the Minister's left hand, on the back seat, Mr. Adams occupying the front seat, the Minister's chariot being behind, received his secretary. The carriages being arrived at the state house in Philadelphia, the two members of Congress, placing themselves at the Minister's left hand, a little before one o'clock, introduced him to his chair in the Congress chamber, the President and Congress sitting.—The Minister being seated, he gave his credentials into the hands of his secretary, who advanced and delivered them to the President. The secretary of Congress then read and translated them; which being done, Mr Lee announced the Minister to the President and Congress;—at this time, the President, the Congress, and the Minister rose together; he bowed to the President and the Congress,—they bowed to him; whereupon, the whole seated themselves. In a moment the Minister rose and made a speech to Congress, they sitting. The speech being finished, the Minister sat down, and giving a copy of his speech to his secretary, he presented it to the President. The President and the Congress then rose, and the President pronounced their answer to the speech, the Minister standing. The answer being ended, the whole were again seated, and the President, giving a copy of the answer to the secretary of Congress, he presented it to the Minister. The President, the Congress, and the Minister then again rose together: the Minister bowed to the President, who returned the salute, and then to Congress, who also bowed in return; and the Minister having bowed to the President, and received his bow, he withdrew, and was attended home in the same manner in which he had been conducted to the audience. Within the bar of the house the Congress formed a semi-circle on each side of the President and the Minister: The President sitting at one extremity of the circle at a table upon a platform elevated two steps—the Minister sitting at the opposite extremity of the circle in an arm-chair upon the same level with the Congress. The door of the Congress chamber being thrown open below the bar, about two hundred gentlemen were admitted to the audience, among whom were the Vice President of the Supreme Executive Council,

* Franklin appeared at court in the dress of an American cultivator. His straight, unpowdered hair, his round hat, his brown cloth coat, formed a contrast with the laced and embroidered coats, and the powdered and perfumed heads of the courtiers of Versailles.

of Pennsylvania, the Supreme Executive Council, the Speaker and members of the House of Assembly, several foreigners of distinction, and officers of the army. The audience being over, the Congress and the Minister at a proper hour repaired to an entertainment given by the Congress to the Minister, at which were present by invitation, several foreigners of distinction and gentlemen of public character. The entertainment was conducted with a decorum suited to the occasion, and gave perfect satisfaction to the whole company.

IN CONGRESS, Aug. 6, 1778.

According to order, the honorable the Sieur Gerard being introduced to an audience by the two members for that purpose appointed, and being seated in his chair, his secretary delivered to the President a letter from his most Christian Majesty, which was read in the words following :

“ Very dear, great friends and allies—

“ The treaties which we have signed with you in consequence of the proposals your Commissioners made to us in your behalf, are a certain assurance of our affection for the United States in general and for each of them in particular, as well as of the interest we take and constantly shall take in their happiness and prosperity. It is to convince you more particularly of this, that we have nominated the Sieur Gerard, Secretary of our Council of State, to reside among you in the quality of our Minister Plenipotentiary. He is better acquainted with our sentiments towards you and the more capable of testifying the same to you, as he was intrusted on our part to negotiate with your Commissioners, and signed with them the treaties, which cement our union. We pray you to give full credit to all he shall communicate to you from us, more especially when he shall assure you of our affection and constant friendship for you. We pray God, very dear, great friends and allies, to have you in his holy keeping. Your good friend and ally. [Signed] LOUIS.

“ Versailles, March 18, 1778.

[Undersigned]

GRAVIER DE VERGENNES.

[Directed]—“ To our very dear, great friends, the President and members of the General Congress of North America.”

Omitting the speech of M. Gerard, the following was the answer of the President on the occasion:

“ Sir,—The treaties between his most Christian Majesty and the United States of America, so fully demonstrate his wisdom and magnanimity as to command the reverence of all nations. The virtuous citizens of America, in particular, can never forget his beneficent attention to their violated rights, nor cease to acknowledge the hand of a gracious Providence in raising them up so powerful and illustrious a friend. It is the hope and opinion of Congress, that the confidence his Majesty reposes in the firmness of these States, will receive additional strength from every day's experience. This assembly are convinced, sir, that if it had rested solely with the most Christian King, not only the independence of these States would have been universally acknowledged, but their tranquillity fully established. We lament that lust of domination which gave birth to the present war, and hath prolonged and extended the miseries of mankind. We ardently wish to sheathe the sword and spare the further effusion of blood; but we are determined by every means in our power to fulfil those eventual engagements, which have acquired positive and permanent force from the hostile designs and measures of the common enemy. Congress have reason to believe, that the assistance so wisely and generously sent, will bring Great Britain to a sense of justice and moderation, promote the common interests of France and America, and secure peace and tranquillity on the most firm and honorable foundation. Neither can it be doubted that those, who administer the powers of government within the several states of this Union, will cement that connexion with the subjects of France, the beneficial effects of which have already been so sensibly felt. Sir, from the experience we have had of your exertions to promote the true interests of our country, as well as your own, it is with the highest satisfaction Congress receives, as the first Minister from his most Christian Majesty, a gentleman whose past conduct affords a happy presage, that he will merit the confidence of this body, the friendship of its members, and the esteem of the citizens of America.”

John Adams, of Massachusetts, was chosen in February, 1785, minister plenipotentiary to the court of St. James; the first envoy sent to Great Britain by the United States. Mr Adams arrived in England in the spring of the same year, and his first note, dated Bath Hotel, May 26, 1785, in these words:

"Mr Adams has the honor to acquaint the Right Honorable the Marquis of Caermarthen, that he is just arrived in town with credentials from the United States of America and desires to be informed what hour he may have the honour of paying his respects to his Lordship."

"Grosvenor Square, May 27.—Lord Caermarthen presents his compliments to Mr Adams; and shall be glad to see Mr Adams this day about one o'clock in Grosvenor Square, or at the office in Cumberland Row about four o'clock, which is ever most convenient to Mr Adams."

These notes were immediately succeeded by the following:

"St. James, May 27, '85.—Sir, I forgot to mention to you to day, when you did me the honour to call upon me in Grosvenor Square, that it is *customary* for every minister to send the Secretary of State a copy of the *credential letters*, that are directed by their sovereigns to present to his Majesty *and the Queen*. With regard to the superscription, I find the credentials of the ministers from the States' General of the United Provinces are only addressed, 'Au Roi de la G. B.' I believe I did mention to you; Sir, that credential letters are always delivered, sealed, into his Majesty's hands.

"I am, Sir, &c.

"CAERMARTHEN.

"JOHN ADAMS, Esq., &c. &c. &c."

LONDON, May 28, '85.—My Lord, I have received the letter your Lordship did me the honour to write me yesterday, and have enclosed a copy of the credential letter, I am directed by my sovereign to present to his Majesty. I am so unfortunate as not to have any for the Queen. But I know the sentiments of my country and of Congress so well, as to be sure, that it is not owing to any want of respect to her Majesty;—probable it was merely the want of information, that there ever had been a precedent of it.

"I beg leave to propose to your Lordship, that the superscription should be, to his Majesty George the 3d, King of Great Britain, France and Ireland, Defender of the Faith, &c. If your Lordship should not disapprove of this, I should prefer it to the address of the United States' Provinces, as being more respectful."

"May 29.—This morning Sir Clement Cotterel Dormer, master of the ceremonies, called on me to inform me, that he was ordered to attend me to Court on Wednesday, as he did all foreign ministers at their first presentation." Agreeable to previous arrangements, the master of ceremonies called on me at one, and accompanied me to the Secretary's office, whence Lord Caermarthen accompanied me to the Palace, and was in a very short time introduced to the King's closet, when with the usual ceremony I presented my letter of credence to his Majesty, and after a few minutes conversation retired. I have only time to observe, that I was introduced with every necessary formality, and received with *some marks of attention*."

"The master of ceremonies attended me in the anti-chamber, while the Secretary of State went to take the commands of his Majesty. While I stood in this place, where, it seems, all ministers stand upon such occasions, always attended by the master of ceremonies, the room, very full of ministers of state, bishops and all other sorts of courtiers, as well as the next room, which is the King's bed chamber, you may well suppose, that I was the focus of all eyes. I was relieved from the embarrassment of it by the Swedish and Dutch ministers, who came to me and entertained me with a very agreeable conversation the whole time. Some other gentlemen, whom I had seen before, also came to make their compliments to me, till the Marquis Caermarthen returned and desired me to go with him to his Majesty. I went with his Lordship through the Levee room into the King's closet. The door was shut, and I was left with his Majesty and Secretary alone. I made *the three reverences*, one at the door, another about half way, and the third before the presence, according to the usage established at this and all the northern courts of Europe, and then addressed myself to His Majesty in the following words:

"Sir—The United States of America have appointed me their minister plenipoten-

tiary to your Majesty, and have directed me to deliver to your Majesty this letter, which contains the evidence of it. It is in obedience to their express commands, that I have the honour to assure your Majesty of their unanimous disposition and desire to cultivate the most liberal and friendly intercourse between his Majesty's subjects and their citizens, and of their best wishes for your Majesty's health and that of the royal family. The appointment of a minister from the United States to your Majesty's Court will form an epocha in the history of England and America. I think myself more fortunate than all my fellow citizens in having this distinguished honour to appear in your Majesty's presence in a diplomatic character, and shall esteem myself the happiest of men, if I can be instrumental in restoring an entire esteem, confidence and affection, or, in other words, the good old nature and the good old humour between people, who, though separated by an ocean and under different governments, have the same language, a similar religion, and kindred blood. I beg your Majesty's permission to add, that, though I have some time before been intrusted by my country, it was never in my whole life in a manner so agreeable to myself.' The King listened to every word; and heard me with dignity, but with apparent emotion;—whether it was the nature of the interview, or my sensible agitation (for I felt more than I could express, that touched him, I cannot say, but he was much affected, and answered me with more tremor than I had spoken with."

"Sir—The whole of this business is so *extraordinary*, that the *feelings* you discover on the occasion appear to me to be just and proper. I wish, sir, to be clearly understood, before I reply to the obliging sentiments you have expressed in behalf of the United States. I am, you may well suppose, the last person in England, that consented to the dismemberment of the empire, by the independence of the new states; and while the war was continued, I thought it due to my subjects to prosecute that war to the utmost. But, sir, I have consented to the independence, and it is ratified by treaty, and I now receive you as their minister plenipotentiary; and every attention respect, and protection, granted to other plenipotentiaries, you shall receive at this court. And, sir, as I was the last person that consented to the independence of the United States, so I shall be the last person to disturb, or in any way infringe upon, their sovereign independent rights; and I hope and trust, that from blood, religion, manners, habits of intercourse, and almost every other consideration, the two nations will continue, for ages, in friendship and confidence with each other."

29. *Visits*. Having mentioned the members of the diplomatic corps, I will allude to some of the forms that regulated their intercourse. Once, the uncertainty of these led to difficulties, even wars. The congress of Vienna in 1815 extirpated them all, as far as questions of precedence were concerned; and these had ever been found the most serious. It declared, that every question of that nature should be settled by the rule of time. He who has been longest at a court or government, is to be first. The relative power of the nation he represents, is to count nothing. This is a rule satisfactory to small states, and it is to the praise of large ones, that they established it. It applies to all intercourse where competition can arise, whether of business or ceremony; and therefore regulates *Visits*. The member of the corps last arriving, pays the first. The rule does not overleap classes, applying only to those of the same class. *Rush's Memoranda*.

30. The *visits* between ambassadresses are performed on the same footing as those between their husbands, with the difference of some trifling points of etiquette, which it would be impossible to reduce to general rules. The wives of ambassadors, and ministers, claim, at least, the same honours at court as are granted to those ladies whose husbands are of an equal rank with theirs. *Note to Martens' Law of Nations*.

31. *Precedence.* Arrangement, signed by the eight powers, parties to the treaties of 1814—1815, to wit: Austria, Spain, France, Great Britain, Portugal, Prussia, Russia, and Sweden, on this subject:

ART. 1. Diplomatic agents are divided into three classes. 1. Ambassadors, Legates, or Nuncios. 2. Envoys, Ministers, and other agents accredited by the Sovereigns. 3. Chargés d'Affaires, accredited by the Department of Foreign Relations.

ART. 2. Ambassadors, Legates, or Nuncios, are alone invested with a representatative character.

ART. 3. Diplomatic agents sent on a mission extraordinary, are not entitled, on this account, to a superior rank.

ART. 4. Diplomatic agents of the respective classes take rank according to the date of the official notice of their arrival. The representatives of the Pope are not affected by this article.

ART. 5. Each State shall determine upon an uniform mode of receiving diplomatic agents of the different classes.

ART. 6. Neither relationship, nor family or political alliances between courts, confer rank upon their agents.

ART. 7. The order in which the signatures of Ministers shall be placed in acts or treaties between several powers, that allow of the alternat, shall be determined by lot.

32. The United States have never sent or received an ambassador, in the usual diplomatic sense of that term. Indeed, the form of our government appears entirely to forbid it, while we confine ourselves to the European meaning of the rank. An ambassador has a representative character; he represents the person and dignity of his sovereign. "The preeminence of ambassadors manifests itself chiefly in the particular ceremonial of their reception in the country, where they are appointed to reside. They are entitled to speak at the audiences they obtain, with *heads covered*, to keep a canopy or throne in their dwellings," &c. An ambassador of course, is often employed to manage the affairs of his nation, like other public ministers; but his representative character of the honor and dignity of the sovereign, constitutes in his particular case, a minister of the first rank. This latter quality an American minister cannot well possess; for he represents nothing but the nation. The government, it is true, has a right to require that ministers shall be received from them of the rank of ambassadors, but the distinction will obviously depend upon something different from the representation of the person of the sovereign. The English, we believe, are not much in the habit of employing *ambassadors*; most of their ministers being envoys, with full powers. But there are certain courts in Europe to which it seems to be a sort of etiquette to send an *ambassador*.

During the confederation, the public officers of the United States abroad were called, either *Chargés d'Affaires*, Commissioners, or Ministers Plenipotentiary. We are not aware that the confederation ever received or employed an *Envoy Extraordinary*. At present the government has established, by its practice, three classes, viz: *Chargé d'Affaires*, Minister Plenipotentiary and *Envoy Extraordinary*. The *Corps Diplomatic* of this country in Europe now consists either of *Chargés d'Affaires*, or *Envoys Extraordinary*, with full powers. *Lyman's Diplomacy*.

33. *Ambassadors* form an exception to the general case of foreigners resident in the country, and they are exempted absolutely from all allegiance, and from all responsibility to the laws of the country to which they are deputed. As they are representatives of their sovereigns, and requisite for negociations and friendly intercourse, their persons, by the consent of all nations, have been deemed inviolable, and the instances are rare in which popular passions, or perfidious policy, have violated this immunity. Some very honourable examples of respect for the rights of ambassadors, even when their privileges would seem, in justice, to have been forfeited on account of the gross abuse of them, are to be met with in the ancient Roman annals; notwithstanding the extreme arrogance of their pretensions, and the intemperance of their military spirit. If, however, ambassadors should be so regardless of their duty, and of the object of their privilege, as to insult, or openly attack the laws or government of the nation to whom they are sent, their functions may be suspended by a refusal to treat with them, or application can be made to their own sovereign for their recall, or they may be dismissed, and required to depart within a reasonable time. We have had instances, within our own times, of all these modes of dealing with ministers who had given offence, and it is not to be denied, that every government has a perfect right to judge for itself whether the language or conduct of a foreign minister be admissible. The writers on public law go still further, and allow force to be applied to confine or send away an ambassador, when the safety of the state, which is superior to all other considerations, absolutely requires it, arising either from the violence of his conduct, or the influence and danger of his machinations. This is all that can be done; for ambassadors cannot, in any case, be made amenable to the civil or criminal jurisdiction of the country; and this has been the settled rule of public law, ever since the attempt made in the reign of Elizabeth to subject the Scotch ambassador to criminal jurisdiction, and the learned discussions which that case excited.* By fiction of law an ambassador is considered as if he were out of the territory of the foreign power; and it is an implied agreement among nations, that the ambassador, while he re-

* See "Immunities of Public Ministers."

sides within the foreign state, shall be considered as a member of his own country, and the government he represents has exclusive cognizance of his conduct, and control of his person. The attendants of the ambassador attached to his person, and the effects in his use, are under his protection and privilege, and equally exempt from the foreign jurisdiction, though there are strong instances in which their inviolability has been denied and invaded. The distinction between ambassadors, ministers plenipotentiary, and envoys extraordinary, relates to diplomatic precedence and etiquette, and not to their essential powers and privileges.

A state may be divided and distracted by civil wars, so as to render it inexpedient to acknowledge the supremacy of either party. Bynkershoeck says, that this right of sending ambassadors belongs to the ruling party, in whom *stet rei agendi potestas*. This is placing the right where all foreign governments place it, in the government *de facto*, which is the actual exercise of power; but the government to whom the ambassador is sent, may exercise its discretion in receiving, or refusing to receive him.

It sometimes becomes a grave question, in national discussions, how far the sovereign is bound by the act of his minister. This will depend upon the nature and terms of his authority. It is now the usual course for every government to reserve to itself the right to ratify or dissent from the treaty agreed to by its ambassador. A general letter of credence is the ordinary letter of attorney, or credential of the minister, and it is not understood to confer a power upon the minister to bind his sovereign conclusively. To do so important an act would require a distinct and full power, containing an express authority to bind the principal definitely, without the right of review, or the necessity of ratification on his part. This is not the ordinary or prudent course of business. Ministers always act under instructions which are confidential, and which, it is admitted, they are not bound to disclose; and it is a well grounded custom, as Vattel observes, that any engagement which the minister shall enter into is of no force among sovereigns, unless ratified by his principal. This is now the usage, although the treaty may have been signed by plenipotentiaries. *Kent's Commentaries*.

34. *The Power to receive Ambassadors and Ministers* is always an important, and sometimes a very delicate function; since it constitutes the only accredited medium, through which negotiations and friendly relations are ordinarily carried on with foreign powers. A government may in its discretion lawfully refuse to receive an ambassador, or other minister, without its affording any just cause of war. But it would generally be deemed an unfriendly act, and might provoke hostilities, unless accompanied by conciliatory explanations. A refusal is sometimes made on the ground of the bad character of the minister, or his former offensive conduct, or of the special subject of the embassy not being proper, or convenient for discussion.

This, however, is rarely done. But a much more delicate occasion is when a civil war breaks out in a nation, and two nations are formed, or two parties in the same nation, each claiming the sovereignty of the whole, and the contest remains as yet undecided, *flagrante bello*. In such a case a neutral nation may very properly withhold its recognition of the supremacy of either party, or of the existence of two independent nations; and on that account refuse to receive an ambassador from either. It is obvious, that in such cases the simple acknowledgement of the minister of either party, or nation, might be deemed taking part against the other; and thus as affording a strong countenance, or opposition, to rebellion and civil dismemberment. On this account, nations, placed in such a predicament, have not hesitated sometimes to declare war against neutrals, as interposing in the war; and have made them the victims of their vengeance, when they have been anxious to assume a neutral position. The exercise of this prerogative of acknowledging new nations, or ministers, is, therefore, under such circumstances, an executive function of great delicacy, which requires the utmost caution and deliberation. If the executive receives an ambassador, or other minister, as the representative of a new nation, or of a party in a civil war in an old nation, it is an acknowledgment of the sovereign authority *de facto* of such new nation, or party. If such recognition is made, it is conclusive upon the nation, unless indeed it can be reversed by an act of congress repudiating it. If, on the other hand, such recognition has been refused by the executive, it is said, that congress may, notwithstanding, solemnly acknowledge the sovereignty of the nation, or party. These, however, are propositions, which have hitherto remained, as abstract statements, under the constitution; and, therefore, can be propounded, not as absolutely true, but as still open to discussion, if they should ever arise in the course of our foreign diplomacy. The constitution has expressly invested the executive with power to receive ambassadors, and other ministers. It has not expressly invested congress with power, either to repudiate, or acknowledge them. At all events, in the case of a revolution, or dismemberment of a nation, the judiciary cannot take notice of any new government, or sovereignty, until it has been duly recognised by some other department of the government, to whom the power is constitutionally confided.

That a power, so extensive in its reach over our foreign relations, could not be properly conferred on any other, than the executive department, will admit of little doubt. That it should be exclusively confided to that department, without any participation of the senate in the functions, (that body being conjointly entrusted with the treaty-making power,) is not so obvious. Probably the circumstance, that in all foreign governments the power was exclusively confided to the executive department, and the utter

impracticability of keeping the senate constantly in session, and the suddenness of the emergencies, which might require the action of the government, conduced to the establishment of the authority in its present form. It [the power to receive public ministers] is not, indeed, a power likely to be abused; though it is pregnant with consequences, often involving the question of peace and war. And, in our own short experience, the revolutions in France, and the revolutions in South America, have already placed us in situations, to feel its critical character.

As incidents to the power to receive ambassadors and foreign ministers, the president is understood to possess the power to refuse them, and to dismiss those who, having been received, become obnoxious to censure, or unfit to be allowed the privilege by their improper conduct, or by political events. While, however, they are permitted to remain, as public functionaries, they are entitled to all the immunities and rights, which the law of nations has provided at once for their dignity, their independence, and their inviolability. *Story's Commentaries.*

85. *Instructions.* The instructions given by the sovereign to his minister, are intended to instruct him in the course of conduct which he is to observe, during the term of his mission, as well towards the court to which he is sent, the members of the diplomatic corps, &c. as relatively to the particular object of his mission. As these comprise, moreover, a collection of designs, views and motives, calculated to shew the spirit and drift of the cabinet, the following observations will not be deemed irrelevant:

The minister should require that his instructions be precise and detailed; he should not forget, that the more general they are, the more responsible he becomes for the consequences; and in order to avoid such a dilemma, he should scrupulously examine all the points, require an explanation of whatever he may find obscure or ambiguous, to alter any article he may judge hostile to the success of his negotiation, to remove [or expunge] any article which might render his conduct suspicious or odious, and to cause to be inserted whatever might facilitate the negotiation. He should, moreover, endeavor to foresee the different situations in which he may be placed, the different turns which the affairs with which he is charged may take: it is only by proposing his doubts in this manner, that he can fully inform himself, and fully supply what may have been overlooked, or have escaped the closest attention of those who have drawn up his instructions. He will find it also much his advantage to discuss, as we may say, with the Secretary of State, the matters with which he is charged, in order the better to become acquainted with their entire object and extent.

Independently of the first instructions received by the diplomatic agent on reaching his destination, the letters transmitted to him by his sovereign

or the minister for foreign affairs, during the term of his mission, should be regarded as new instructions, or the development of the old ones.

The instructions are designed for the minister only, and consequently are not to be communicated, without an order from his court, or, unless from some particular motives, he believes himself authorised to communicate some points of them. It often happens also, that two sets of instructions are made out: one arranged for exhibition, in case of need, the other secret and for the sole use of the minister.

It results from the very nature of the instructions, that they ought to be of infinite diversity, according to the end and object of each mission. It would, therefore, be impossible to enumerate all the points which should enter into their composition. *Martens' Manual.*

36. Send an able man, and let him act as he shall think fit. *Wicquefort.*

37. The instructions are a secret instrument, which the Ambassador is not obliged to communicate to the court where he negotiates; nay, I dare affirm, that he ought not to produce it, without a necessity, and an express order. In the year 1560, Queen Elizabeth, sent into Scotland, Robert Bowes, with orders to make pressing instances to have the Duke of Lenox removed from the king's person, who was at that time very young. Those of the Council of Scotland said, that it was so severe and unjust a thing, that not being able to believe the Queen had given him any such orders, they desired to see them. Bowes said he would not shew them, and that all he could do, was to let the king, and two or three of his confidants, see them. The Scotch were not satisfied therewith. But the queen was so displeased at their procedure, that she recalled her ambassador, and refused to give audience to him they sent to justify their actions.

In the year 1643, Walter Strickland, minister from the parliament of London, presented a memorial to the states general, wherein he spoke of the prince of Orange with little respect. He was urged to shew his orders; but it was a kind of violence which could not well be justified. They that did it, either did not reflect on what they did, or else they were very willing to offend his master. We have seen within some years a minister, who having been sent by a powerful state to one of the first princes of Germany, began his negotiations, by laying his instructions on the table. But all that can be said of it is, that it was the action of a fool, in the utmost extent of the signification of that epithet. It is an unheard of thing, that a minister has been compelled to shew his orders, and they who force him to do it, offer violence to the law of nations.

The ambassador after he has presented his letters of credence, and had them approved, ought to enjoy the effect thereof, purely, and simply; and has no farther occasion to fortify, or authorise, his negotiation by producing

other instruments, unless he be invited, or that he himself desires to make a particular treaty, for which he must necessarily have a special power. *ib.*

38. The *instructions* given to the minister contain the master's *secret mandate*: the orders to which the minister must carefully conform, and which limit his powers. *Vattel.*

39. *Personal Instructions to the Diplomatic Agents of the United States, in Foreign Countries:*

The following Regulations and Instructions have been adopted by the Department of State, and are prescribed for the government of the Diplomatic Agents of the United States in Foreign Countries—

40. *Presentation.* On receiving his *instructions* from the Department of State, the Diplomatic Agent will proceed, with as little delay as possible, unless otherwise expressly directed, and by such route and conveyance, as his own convenience, if not incompatible with the public interest, may suggest, to the seat of the Government to which he is accredited, where he will establish his residence, and where he will be put in possession of the archives, papers, seals and books of the Legation, if a mission of the United States, shall have previously existed there. On his arrival he will inform the Minister of Foreign Affairs, or other official diplomatic organ of the Government, of that fact, and request to be informed of the time, manner and place, at which he may be admitted to present his *Letter of Credence*. If the Diplomatic Agent be of the rank of Minister Plenipotentiary, and bearer of a *Letter of Credence* addressed to the Chief of the Government, he will, on asking an audience for the purpose of delivering the original to him, in person, communicate to the Minister of Foreign Affairs the office copy of such Letter, with which he shall have been furnished for that purpose by this Department. In performing all the ceremonies connected with his official reception, he will conform to the established usage of the Country in which he is to reside, and with the rules prescribed for agents of his rank.

41. *Uniform.* From a proper degree of respect to what is understood to be the usage adopted by some Governments, requiring the members of the Diplomatic Body accredited near them, to wear a court dress upon certain occasions, such as their presentation to the Sovereign or chief executive officers. The President has thought proper to adopt the following, as *the dress* to be used by the Diplomatic Agents of the United States, upon all such occasions, being recommended as well by its comparative cheapness as by its adaptation to the simplicity of our institutions: viz:—A black coat, with a gold star on each side of the collar near its termination; the under clothes to be black or white, at the option of the wearer; a three-cornered chapeau de bras, with a black cockade and gold eagle; and a steel-mounted sword with a white scabbard. It is to be understood, however, that the use of this particu-

lar dress is not prescribed by The President. It is barely suggested, by his direction, as an appropriate and convenient uniform dress for the use of the Diplomatic Agents of the United States residing near Foreign Governments.

42. *Compensation.* The *compensation* allowed to Ministers and other Diplomatic Agents of the United States, is fixed by law, and is intended to cover all *personal and other expenses*. Under this denomination are not included, however, those incurred in the purchase of, or subscription to, gazettes and pamphlets, transmitted to this Department; of postage, stationary, *necessary* and *customary* presents to the menial attendants of Public Functionaries at the presentation of the Diplomatic Agent, and on other established occasions (usually the Christmas and New Year's days) but will form, under the head of *Contingencies of the Legation*, a separate charge in his accounts. For his compensation, *actually due*, and the contingent expenses of the Legation, *actually incurred*, the Diplomatic Agent is authorised, by special instructions, to draw either upon the Department of State, or upon the Bankers of the United States designated in said instructions; but in availing himself of this authorisation, he is to be careful not to exceed, in the amount drawn, the sum to which he may be entitled, in account with the United States, at the dates of his drafts.

43. *Accounts.* No *contingent expenses* are to be incurred without necessity, unless in compliance with the established usages; and no charge of any other description will be admitted, not warranted by express directions from this Department. Exact vouchers, in all cases of expenditures, will be necessary for the settlement at the Treasury of the accounts of the Mission; and as some of the incidental charges, coming under this denomination, are of a nature scarcely admitting of any other sort of voucher for every item, a separate account should be kept and certified, either by the Secretary of Legation, or by the Chargé d'Affaires, himself. These particulars are thus minutely stated in order to remove all doubts and uncertainty on the subject of public accounts, which it is to be remembered, are to be regularly transmitted, by duplicates, for adjustment at the Treasury, at the close of every quarter, ending with March, June, September and December. The foregoing directions, and particularly that of forbearing to draw for any public money in advance, and that requiring the regular quarterly transmission of the accounts of the Legation for settlement, are rendered the more indispensable for the due observance of the act of Congress "concerning the disbursement of public money," approved the 31st of January, 1823, (see acts of the 2d Session 17th Congress. 7th vol. p. 113.)

44. *Archives and Books of the Legation.* All the *printed books* delivered at the Department of State to Diplomatic Agents, found by them at the Legation, or procured for its use at the public expense, are the property of the United States, and being intended for the special use of their several Legations, are to remain permanently with their archives, and to be trans-

mitted by each agent to his successor in office, or to such person as may be designated by the Department of State to take charge of them at the termination of the Mission. All the *records* kept in the office of the Legation, and all the original documents received and filed there, in the course of business, are likewise public property, and constitute the archives of the Mission. Particular care is therefore to be observed, that the *papers* of every description, being of an official character and connected with public business, be kept well arranged, so that easy reference may be had to them in all future time: and that a record of the official despatches, letters and notes written at the Legation, be carefully and punctually made and preserved, as part of its archives.

45. *Cypher*. On taking charge of the Legation, the Diplomatic Agent will either find amongst its papers, or be furnished by the Department of State, with a *Cypher* to be used by him in his correspondence with his Government, or with other Agents of the United States in Foreign Countries, on occasions when the confidential or secret nature of the information to be communicated, shall render it proper.

46. *Commercial Regulations*. By resolutions of the Senate of the 3d, of March, 1817, and the House of Representatives of the 21st January, 1823, The President was requested to cause to be collected, digested, printed, and laid before those Houses, respectively, so much of the treaties, laws and regulations of the different Foreign Countries with which the United States have *commercial intercourse*, as relates to import, export, tonnage, light-mouey, pilotage and port-duties; to bounties and drawbacks; to colonial trade and navigation; to the national character of mariners; and to the ship's papers and navigation of such foreign countries, respectively specifying the comparative footing of the national and foreign ships employed in any branch of such commercial intercourse. In compliance with these Resolutions, digests were prepared at this Department, and laid before Congress in 1819 and 1824, of which copies will be found among the books of all the missions of the United States abroad. Since their publication, the laws and regulations from which they were compiled, have undergone and are daily undergoing alterations and modifications consequent upon the various changes in the commercial policy of nations. As it is interesting that this Department should be kept acquainted with the subject, in all its details, it is made the duty of the Diplomatic Agents of the United States to communicate, from time to time, to their Government, such alterations and modifications as may take place in the commercial legislation of the countries in which they respectively reside, following, as their guide in the inquiries and investigation necessary for that object, the parts already digested in the publications referred to.

47. *Information to be transmitted to the Department*. Amongst the most important general duties of a minister or other Diplomatic Agent of the

United States in foreign countries, is that of transmitting to his own Government accurate *information* of the *policy* and *views* of that to which he is accredited, and of the character and vicissitudes of its important relations with other Powers. To acquire this information, and particularly to discriminate between that which is authentic, and that which is spurious, requires steady and impartial observation, a free, though cautious correspondence with the other Agents of the United States abroad, and friendly social relations with the members of the Diplomatic Body at the same place.

In their correspondence with the Department of State, besides the current, general and particular politics of the country where they are to reside, the Diplomatic Agents of the United States will be mindful, as they may find it convenient, to transmit information of every kind, relating to the Government, finances, commerce, arts, sciences and condition of the nation, not already known, and which may be made useful to the United States. Books of travels containing statistical or other information of political importance, historical works not before in circulation, authentic maps published by authority of the State, or distinguished by extraordinary reputation, and publications of new and useful discoveries, will always be acceptable acquisitions to this Department. The expense of procuring and transmitting all such books, maps, and pamphlets, are to form a separate charge to the Department; but none of any considerable amount is to be incurred in any one account, without a previous express direction for it from this office.

48. *Signing of Treaties, &c.* It is the practice European Governments, in the drawing up of their treaties with each other, to vary the *order of naming the parties* and that of the *signatures* of the Plenipotentiaries, in the counterparts of the same treaty, so that each party is first named, and its plenipotentiary signs first, in the copy possessed and published by itself. And, in treaties drawn up between parties using different languages, and executed in both, each party is first named, and its Plenipotentiary signs, first, in the copy executed in its own language. This practice having, on several occasions, been accidentally or inadvertently omitted to be observed by the United States, the omission was followed by indications of a disposition in the negotiators of certain royal European Governments to question its applicability to treaties between them and the United States. It became, therefore, proper to insist upon it, as was accordingly done with effect. As it is understood to involve a principle, it is to be considered as a standing instruction to the Diplomatic Agents of the United States to adhere to this practice, called "*alternate*," in all cases where they shall have occasion to sign, in their public capacity, any Treaty, Convention, or other document, with the Plenipotentiaries of other powers.

49. *Consuls.* In the practice of the Government of the United States, there is no immediate connexion or dependence between persons holding *diplomatic*

consular appointments in the same country; but, by the usage of all the commercial nations of Europe, such a subordination is considered as of course. In the transaction of their official duties, the Consuls are often in necessary correspondence with their Ministers, or *Chargés d'Affaires*, through whom alone they can regularly address the Government of the Country in which they reside, and they are always supposed to be under their direction. The Diplomatic Agents will accordingly maintain such correspondence with the Consuls of the United States in the countries to which they are accredited, as they will think conducive to the public interest; and, in case of any vacancy in their offices, which may require the temporary appointment of a fit person to perform the duties of the Consulate, such appointment will be made by the Minister or *Chargé d'Affaires*, with the consent of the Government of the Country in which he resides, he giving immediate notice thereof to this Department.

50. *Passports*. Among the ordinary functions of an American Diplomatic Agent abroad, is that of giving *passports* to Citizens of the United States who apply for them. They sometimes receive applications for such passports from citizens of other countries; but these are not regularly valid, and should be granted only under special circumstances, as may sometimes occur in the case of foreigners coming to the United States. In times of war and internal commotions, such passports are often solicited, and sometimes sought, by fraudulent means, to be obtained, to favor the escape of individuals having no right to such protection, and being in peril of their persons. As such applications may be made to all our Ministers and *Chargés d'Affaires* abroad, their vigilance should be exercised in guarding against such impositions, and their firmness in resisting such solicitations. Respect for the passport of an American Minister abroad is indispensable for the safety of his fellow-citizens travelling with it; and nothing would be so fatal to that respect as the experience that his passport had been abusively obtained by persons not entitled to it. All passports should be gratuitously given, and a record or list of all those which may be delivered, containing the name and voucher of American citizenship of the person to whom they are given, should be kept in the office of the Legation. They may be refused even to citizens of the United States, who have so far expatriated themselves as to have become bound in allegiance to other nations, or who in any other manner have forfeited the protection of their own. Protections to seamen are not included under the denomination of passports, nor are they even granted by Public Ministers. Seamen may, nevertheless, like other citizens, occasionally want the passport of the Minister, and be equally entitled to it.

51. *Presents*. A custom prevails, among the European Sovereigns, upon the conclusion of treaties, of bestowing *presents* of jewelry, or other articles of pecuniary value, upon the minister of the Power with which they are nego-

tiated: the same usage is repeated upon the Minister's taking leave, at the termination of his mission. The acceptance of such presents by Agents of the United States is expressly prohibited by the Constitution; and, even if it were not, it can scarcely be consistent with the delicacy of intercourse with foreign Powers, for our Ministers to receive from those Powers, or from the persons administering their Governments, such favors as their own Agents in the United States can never receive from our Executive in return. The usage, exceptionable in itself, could only be tolerated by its being reciprocal. It is therefore expected that every offer of such present, which may, in future, be made to any Diplomatic Agent, or other officer of this Government, in foreign countries, will be respectfully, but decisively declined. This having already been a standing instruction to all our Agents abroad, for several years, the rule is, probably, so well known as to prevent the offer of such presents in future; but should there be any reason to expect it, informal notice that it cannot be accepted, given in the proper quarter, by the Agent to to whom it is to be made, would avoid the apparent harshness of declining an intended favor, by anticipating the necessity of a refusal.

52. *Forms of Despatches.* It has been found highly convenient and useful in the transaction of business in the Department of State, to have the original despatches from our Ministers abroad bound up in volumes. For this purpose, and with a view to uniformity, those *despatches* should be *regularly numbered*; and, together with the copies made at the Legation of all papers transmitted with them, should be written on paper of the same dimensions, 13½ inches long, 8½ broad, and a margin of at least 1½ inch around all its borders, for stitching, and cutting off the edges, without injury to the text. A sample of the paper is furnished by this Department, with a set of lines adapted to its size, and marking the margin within which the manuscript should be confined; of which the instructions from this Department also exhibit an example.

It would further conduce to the convenience of the Department, if short *marginal references* were made in the official communications of the Agents of the United States abroad, of the several subjects treated of by them, so as to exhibit at once the parts of their despatches to which particular attention may occasionally be required. The marginal notes in these instructions may be followed as a guide in this respect.

Minute as these particulars appear, they are found to be very essential to the good order and convenience of business in the Department of State; a strict adherence to them is therefore enjoined upon the Diplomatic Agents of all grades, representing the United States in foreign countries.

53. *Ambassador's Powers.* The powers with respect to an ambassador, are nothing else than what a letter of attorney is, in reference to a private person.

The powers are an essential instrument of the embassy, when a treaty is either to be made or concluded, or a particular affair of importance negotiated: in which case it behoves each party to be sure of the other, as to the execution thereof.

A general power of what extent soever, and whatever clauses may be added thereto, is not sufficient for a particular treaty.

In ordinary affairs, the ambassador has no need of a special power. The Portugal ambassador disputing the rank with that of Hungary at the council of Trent, said this latter had no authentic powers; but the fathers of the council declared, that the letters of credence were sufficient. And indeed, there are a thousand occasions, and a thousand affairs, wherein powers are not only unnecessary, but also where they would be altogether of no use; and there are very few embassies where it is requisite to employ plenipotentiaries.

Powers are not so necessary to the ministers who are the bearers thereof, as to the commissioners or ambassadors that treat with them, and whom it behoves to be well assured, that what they shall negotiate and treat of, with the plenipotentiaries, shall be approved of and ratified, although the powers how ample and absolute soever they may be, have always some relation to the secret orders the ministers receive, which may be changed and altered, and often are according to the conjunctures and revolutions of affairs.

The powers ought not to be limited at all, nor refer to the instructions; because being conditional, they would no longer be a full power.

It is certain, that the powers are at least as necessary to him that treats with the minister, as to the minister himself, as it will appear by the following example: the invasion with which Philip the Bold, King of France, threatened the kingdom of Arragon, in the year 1285, obliged the king, Peter the Great, to send to Sancho the Brave, king of Castile, a gentleman whose name was Peter de Bolea, to endeavor to bring him into his interest. This gentleman, who for all powers had only a simple letter of credence, was at a great loss, finding the king of Castile very little disposed to act for the interest of the king of Arragon; insomuch, that being apprehensive lest he should declare in favor of France, he told him, that if he would but promise to remain neuter, the king of Arragon would give him the town of Calatayud, after the war was at an end. Sancho remained neuter, and perceiving that Peter had made an advantageous peace enough with France, he demanded of him the town Bolea had promised him. The king of Arragon said, that the gentleman he had sent him, had neither order nor power to promise any thing; but that he might not be wanting in any thing he owed to a king whose friendship was dear to him, he sent him back the gentleman, to be disposed of by him, as he pleased. Bolea acknowledged to the king of Castile, that he had no orders to offer him any thing; but that it was the great

affection for the king his master, which had obliged him to make those offers; thereby to put him out of those dangers, the junction of the arms of France with those of Castile made altogether inevitable. The king of Castile commended his zeal, and what he had done; treated him, and sent him back to his master. He could blame nobody but himself, for having too lightly given credit to the saying of a minister, who, according to the rules of his profession, did not scruple mingling a little artifice with his probity. Provided ambassadors do but gain their point, they do not make much scruple about the means. The king of Castile ought to have had this promise in writing; and before he accepted of it, have had an authentic copy of the power by virtue of which it was made. And the king of Arragon, on his side, who would have the king of Castile give credit to what that gentleman should say to him on his part, was not obliged to own all that his envoy had done without orders; and he did more than he was obliged to do, in putting into the hands of the king of Castile, the person of whom he might complain for having cheated him; but who, however, had done a very signal service to his master.

Sometimes a minister may be treated with, although he may have no powers, provided he be of quality sufficient to make what he does be approved, and that he have authority enough for that purpose.

Although there be no safety at all to conclude with a minister who has no powers, and that there be none even to enter into a negotiation with him, whose powers have not their due form, yet it is sufficient, however, that he who, notwithstanding that, is willing to negotiate with a minister who has no powers, or whose powers are imperfect, is contented therewith.—*Wicquefort.*

54. Every minister charged with a negotiation, properly so called, ought to be furnished with a full power indicating the degree of authority, with which he is intrusted, and upon the faith of which a negotiation can be begun with him. It should be expressly mentioned, if the minister be only authorised to hear propositions, to report, to propose, or to conclude them: and when there are several ministers, if they are authorised to act separately.

The full power may be inserted in the credentials, but the more usual method is to prepare one separately in form of letters patent. The ministers sent to a congress, a diet, &c., are not usually furnished with credentials; they have merely a full power which serves them for a legitimation, and they interchange the certified copies, or place them in the hands of the minister (*directeur & mediateur*) if there be one.

It is not much in usage at present to furnish a minister with a full power to authorise him to treat with all foreign powers, and which is denominated "*actus ad omnes populos.*" *Martens' Manual.*

55. *Ambassadors inviolable in their Persons.—Declaration of Holland, in 1651:*

(Extract.) Whereas, according to the law of nations, and even that of barbarians, the persons of ambassadors, residents, and the other like public ministers, of kings, princes, and republics, are every where held in such esteem, that no person whatever dare offend, injure or damnify them; but on the contrary, they are in possession of being respected, highly considered, and honored by every body; nevertheless, forasmuch, as we are informed, that some insolent, outrageous, and dissolute persons, have dared to undertake and act the contrary to what is above recited, in reference to some public ministers who have been sent to this Estate, and who reside in our Province: we being willing to provide against the like abuses for the future, have thought fit to ordain very expressly by this our Declaration, and to prohibit and forbid very seriously by the presents, That no person of what nation, state, quality, or condition soever, presume to offend, endamage, injure by word, deed, or look, the ambassadors, residents, agents, or other ministers, of kings, princes, republics, or others, having the quality of public ministers, or to offer them any injury or insult, directly or indirectly, in any manner or kind whatsoever, in their persons; gentlemen of their retinue, servants, houses, coaches, and other things that may belong to them, or depend on them, under the penalty of incurring our utmost indignation; and of being bodily punished, as violators of the law of nations, and disturbers of the public quiet. The whole according to the nature and exigency of the case. Commanding all the inhabitants of this province, and all those who shall there be present, that on the contrary they shew all manner of honor, and pay all respect to this sort of ministers; and even to give them, as also to their domestics, and to those of their retinue, all aid and assistance, and to contribute whatever may be serviceable to their honor, and be aiding to their service and conveniency. Ordaining and commanding the first and the other counsellors of the court of this province, as also all officers, justices and magistrates, and all those to whom it shall belong, to proceed against the transgressors by the execution of the penalties above mentioned, without any manner of connivance or dissimulation whatever. Done at the Hague, under our Great Seal the 29th of March, 1651. *Wicquefort.*

56. *Of the Rights, Privileges and Immunities of Ambassadors, and other Public Ministers.* A respect due to sovereigns should reflect on their representatives, and chiefly on their ambassadors, as representing his master's person, in the first degree. Whoever affronts or injures a public minister commits a crime the more deserving a severe punishment, as thereby the sovereign and his country might be brought into great difficulties and trouble. It is just that he should be punished for his fault, and that the state should, at the expence of the delinquent, give a full satisfaction to the sovereign affronted in the person of his minister. If a sovereign minister offends a citizen, the latter may oppose him without departing from the respect due to the character, and give him a lesson which shall both efface the stain of the outrage and expose the author of it. The person offended may further prefer a complaint to his sovereign, who will demand of the minister's master a just satisfaction. The great concerns of the state forbid a citizen, on such occasions, to entertain those thoughts of revenge which the point of honor might suggest, though otherwise allowable. Even according to the maxims of the world, a gentleman receives no disgrace by an affront for which it is not in his power, of himself, to procure satisfaction. *Vattel.*

57. *Their Person sacred and Inviolable.* The necessity and right of embassies being established, the perfect security, the inviolability of ambassa-

dors, and other ministers, is a certain consequence of it; for if their person be not defended from violence of every kind, the right of embassies become precarious, and the success very uncertain. A right to the end is a right to the necessary means. Embassies then being of such great importance in the universal society of nations, and so necessary to their common well-being, the person of ministers charged with this embassy is to be held *sacred* and *inviolable* among all nations. Whoever offers any violence to an ambassador, or any other public minister, not only injures the sovereign whom this minister represents, but he also hurts the common safety and well-being of nations: he becomes guilty of an atrocious crime towards the whole world. *ib.*

58. *Particular Protection due to them.* This safety is particularly due to the ministers, from the sovereign to whom he is sent. To admit a minister to acknowledge him in such quality, is engaging to grant him the most particular protection, and that he shall enjoy all possible safety. A sovereign is indeed to protect every person within his dominions, whether native or foreigner, and shelter him from violence; but this attention is in a higher degree due to a foreign minister. A violence done to a private person is a common trespass, which, according to circumstances, the prince may pardon: but if done to a public minister, it is a crime of state, an offence against the law of nations. A pardon of this does not depend on the prince in whose country the crime has been committed, but on him who has been offended in the person of his representative. However, if the minister has been insulted by persons ignorant of his character, the fault does not affect the law of nations, but comes within the case of common trespasses. Some dissolute young fellows in a town of Switzerland having, in the night-time, insulted the English minister's house, not knowing who lived there, the magistracy sent a message to the minister to know what satisfaction he required. He wisely answered, that it was the magistrate's concern to vindicate the public as they should judge proper; but as for himself he required nothing, not thinking himself affronted by persons who could have no design on him, as not knowing his house. Another particular circumstance in the protection of foreign ministers is this: according to the wretched maxims introduced by a false point of honor, a sovereign is under a necessity of shewing indulgence towards a person wearing a sword, who instantly revenges an affront done to him by a private person; but violent proceedings can never be allowed of, or excused, against a public minister, unless the latter, by beginning and urging the violence, should lay the other under a necessity of defending himself. *ib.*

59. *Of the Time when it commences.* Though the minister's character does not become declared in its whole extent, and thus does not secure to him the enjoyment of all his rights till he is acknowledged and admitted by the sovereign to whom he delivers his credentials; yet, on his entering into the country whither he is sent, and making himself known, he is under the protection of the law of nation; otherwise it would not be safe for him to

come. Till he has had his audience of the prince, he is on his word to be considered as a minister; and further, besides notice of it, usually sent by letters in case of doubt, the minister is provided with passports, certifying his character. *ib.*

60. *What is due to them in Countries through which they pass.* These passports sometimes become necessary to him in the countries through which he passes in his way to the place of his destination; and, when it is necessary for procuring the respect and honor due to him, he produces them. Indeed that prince alone to whom the minister is sent, is under a particular obligation that he shall enjoy all the rights annexed to his character: yet the others, through whose dominions he passes, are not to deny him those regards to which the minister of a sovereign is entitled, and which nations reciprocally owe to each other. They especially owe to him an entire safety. To insult him would be injuring his master and the whole nation; to arrest him and offer violence to him, would be hurting the right of embassy, which belongs to all sovereigns. Francis the First, king of France, had all the reason in the world to complain of the murder of his ambassadors Rincon and Fregosa, as an horrible crime against public faith and the law of nations. These two persons, destined, the one to Constantinople, and the other to Venice, having embarked on the Po, were stopt and murdered, and in appearance, by order of the governor of Milan. The emperor Charles the Vth's negligence to discover the author of the murder gave room to think that he had ordered it, or at least that he had tacitly approved of the fact. And as he did not give any suitable satisfaction concerning it, Francis the First had a very just cause for declaring war against him, and even demanding assistance of all other nations. For an affair of this nature is not a particular difference, or a litigious question, in which each party wrests law over to his side: it is the quarrel of all nations who are concerned to maintain as sacred the right and means of communicating together, and treating of their affairs. If an innocent passage be due, even with entire safety, to a mere private person, much more is it due to the minister of a sovereign who is going to execute his master's orders, and travels on the affairs of a nation—I say, an innocent passage; for the minister's journey is justly suspected, if a sovereign has reason to apprehend that he will abuse the freedom of coming into his country, for plotting something against his service, or that he is going to give intelligence to his enemies, or to stir up others against him.—We have already said that a passage may be denied him, but he is not to maltreat him, nor suffer any insult to be offered to his person. Though he has not reason sufficient for denying him a passage, he may take precautions against the ample use which the minister may make of it. These maxims the Spaniards found even in Mexico, and the neighbouring countries. The ambassadors were respected all along the

road; but if they went out of the highway they were to forfeit their rights. A very wise reservation, that spies might not be sent, under the name of ambassadors. Thus, at the famous congress of Westphalia, whilst peace was negotiating amidst the dangers of war and the noise of arms, the routs of the several couriers sent or received by the plenipotentiaries were marked, and out of such limits their passports were of no protection. *ib.*

61. *Independence of foreign Ministers.* The inviolability of a public minister, or the safety due to him, more sacredly and more particularly than to any other person, whether foreigner or native, is not his only privilege; he is further, by the universal practice of nations, to enjoy an entire independency from the jurisdiction and authority of the state where he resides. Some authors pretend that this independency is merely positive among nations, and will have it referred to the arbitrary law of nations, which owes its origin to the manners, the customs, or particular conventions: they deny it to be grounded on the natural law of nations. Indeed, the law of nature gives men a right of punishing those who do them wrong, and consequently impowers a sovereign to punish a foreigner who disturbs the public tranquillity, offends themselves, or maltreats their subjects: it authorises them to compel this foreigner to conform himself to the laws, and to behave properly towards the citizens. But it is no less true, that the same natural law imposes on all sovereigns the obligation of consenting to those things without which nations could not cultivate the society nature has established among them, correspond together, negotiate their affairs, or adjust their differences. Now, ambassadors and other public ministers are instruments necessary to the support of this general society, of this mutual correspondence of nations. But their ministry cannot attain its designed end, unless invested with all the prerogatives which may secure the lawful success of it; and which are necessary for the free, faithful, and safe discharge of it. The same law of nations whereby they are obliged to admit foreign ministers, manifestly obliges them likewise to admit those ministers, with all the rights necessary to them, and all the privileges relative to the exercise of their functions. It is easy to conceive that independency must be one of these privileges; without it, that privilege so necessary to a public minister, would be precarious and fluctuating. He might be molested, injured, and maltreated, under a thousand pretences. A minister is often charged with a commission disagreeable to the prince to whom he is sent.— If this prince has any power over him, and especially if his authority be sovereign, how is it to be expected that the minister can execute his master's orders with a proper freedom of mind, fidelity, and firmness? It is necessary he should have no snares to fear, that he cannot be diverted from his functions by any chicanery. He must have nothing to hope, and nothing to fear, from the sovereign to whom he is sent. Therefore, in order to the

success of his ministry, he must be independent of the sovereign's authority, and of the jurisdiction of the country, both civil and criminal. To this it may be added, that the nobility, and persons of great eminence, will be averse from taking on themselves an embassy, if by this commission they were to be subjected to a sovereign authority, and often among nations of no very friendly dispositions to that which they represent, where they must support disagreeable claims, and enter into discussions naturally productive of acrimony. In fine, if an ambassador could be indicted for common trespasses, be criminally prosecuted, taken into custody, punished if he might be sued in civil cases, the consequence will often be, that he will want the power, leisure, or freedom of mind, which his master's affairs require. How will the dignity of the representation be supported in such a subjection? From all these reasons it is impossible to conceive, that the prince, in sending an ambassador, or any other minister, intends to submit him to the authority of a foreign power. This is a fresh reason, which fixes the independency of a public minister. If it cannot be reasonably presumed that his master means to submit him to the authority of the sovereign, to whom he is sent, this sovereign, in receiving the minister, consents to admit him on the footing of independency. And thus there subsists between the two princes a passive convention, giving a new force to the natural obligation. *ib.*

62. The question of which we have been treating [*Immunities of Public Ministers*] has been debated in England and France, on two famous occasions. In London, on account of John Lesly, bishop of Ross, ambassador from Mary, queen of Scotland.* This minister was continually intriguing

* NOTE. In Ward's Law of Nations the case is thus stated

In the year 1567, *Leslie* Bishop of *Ross*, came to the Court of England, in behalf of his mistress the unfortunate Queen of Scots; who, although she was detained prisoner by the English, was allowed to send him, to plead before the Commissioners appointed to examine into her cause. Nothing was determined by the commission; but *Leslie* continued at Court, and exercised the office of Ambassador of *MARY* for the space of one year, when being concerned in raising a rebellion against the English government he was committed to the custody of the Bishop of *London*. From this he was soon liberated, and returning to his function of ambassador, continued to preserve it near two years longer. At that time, being detected in the attempt to raise a serious conspiracy in favor of *MARY* against *ELIZABETH*, he was once more committed; and the following questions concerning him, as appears from Lord *Bulleigh's* State Papers, were propounded to *David Lewis*, *Valentine Dale*, *William Drury*, *William Aubrey*, and *Henry Jones*, learned civil lawyers.

I. "Whither an Ambassador procuring an insurrection or rebellion in the Prince's countrey, towarde whome he is Ambassador, is to enjoye the priviledge of an Ambassador?"

II. "Whither he may not, *jure gentium* et civili Romanorum, be punished as an enemy, traitor, or conspirator, ageinst, that Prince, notwithstandinge he be an Ambassador?"

"To these two questions they answered: Touchinge these two questions, we are of opynyon, that an Ambassador procuringe an insurrection, or rebellion, in the Prince's countrey towards whome he is Ambassador, ought not, *jure gentium*, et civili Romanorum, to enjoye the priviledges, otherwise dew to an Ambassador; but that he maye, notwithstandinge, be punished for the same."

III. "Whither, if the Prince be deposed by the comen Auctoritie of the Realme, and

against queen Elizabeth, and the tranquillity of the state, forming conspiracies, and exciting the subjects to rebellion. Five of the most able civilians

an other elected and invested of that Crowne; the solicitor, or doer of his causes, and for his ayde, (although the other Prynce do suffer such one to be in his Re^{alme}) is to be accepted an Ambassador?"

To this they answered "We doe thinke, that the sollicitor of a Prince *lawfully* deposed, and an other being invested in his place, cannot have the privilege of an Ambassador, for that none but Prynces, and such other as have Soverayntyce, may have Ambassadors."

IV. "Whither a Prynce, comynge into an other Realme, and remayning there under custodye and garde, ought, or may have there his sollicitor of his causes, &c. yf he have, whither he is to be cownted an Ambassador?"

To this they answered, "We doe thinke that a Prynce comynge into an other Prynce's Realm, and being there under garde, and custodye, and remayning till a Prynce, may have a sollicitor there; but whither he be to be accepted an Ambassador, that dependeth on the nature of his comysion.

V. "Whither if such a sollicitor be so appointed by a Prynce so flyenge, or comynge into an other Prynce's Realm; if the Prynce in whose Realm, the Prynce so in grade, and his sollicitor is, shall denounce, or cause to be denounced, to such a Solicitor, or to such a Prynce under custodie, that his said sollicitor shall hereafter be taken for no Ambassador; whither then such sollicitor or agent can justly clayme the priviledge of Ambassador?"

To this they answered, "We doe thincke that the Prynce to whom any person is sent in message of Ambassador, may for causes forbidd him to enter into his lands, or when he hath receyved him, comaunde him to departe; yet so long as he doth remayne in the Realme, and not exceede the bounds of an Ambassador, he may clayme his privilege as Ambassador, or sollicitor, according to the qualitie of his commission.

VI. "Whither, if an Ambassador be confederacy, or be ayder, or comforter of any traytor, knowinge his treason towarde that Prynce, towarde whome, and in whose Realme he pretendeth to be Ambassador: ys not punishable by the Prynce in whose Realme and ageinst whom such treason is committed, or confederacy for treason conspired?"

And to this they answered, "We doe thincke that an Ambassador aydinge and comfortinge any traytor in his treason towarde the Prynce with whom he pretendeth to be Ambassador in his Realme, knowinge the same treason is punishable by the same Prynce ageinst whome suche treason is comytted."

These answers of the Civilians were supposed to be so decisive in favour of the intentions of the Court, that the Bishop was sent for from his confinement in the Isle of Ely, and after being sharply rebuked, was told he should no longer be considered as an Ambassador, but but severely punished as one who well deserved it. He, however, answered with much firmness and apparent knowledge of the law of nations, that he was the Ambassador of an absolute Queen, and of one who was unjustly deposed, and had, according to his duty, carefully endeavoured to effectuate the delivery of his Princess, and the safety of both kingdoms. That he came into *England*, with the full authority of an Ambassador, upon public *warrantiae*, or safe conduct, which he had produced; and that the sacred privileges of Ambassadors were by no means to be violated. *Burleigh* in return, observed that no privilege or public *warrantiae* could protect Ambassadors that offend against the public Majesty of a Prince, but they are liable to *penal actions* for the same; otherwise lewed Ambassadors might attempt the life of princes without any punishment. The Bishop persisted in his positions and maintained that the privileges of Ambassadors had never been violated *via juris sed via facti*, not by regular form of trial, but by violence. This boldness, or the true view which he seems to have taken of this nice subject, appears so far to have weighed with the Ministers of Elizabeth, that they did not dare to put him to death, with the *Duke of Norfolk* and other conspirators, but after detaining him for some time in prison, banished him the country in 1573.

being consulted by the privy council, gave it as their opinion, That an ambassador raising a rebellion against the prince at whose court he resides, forfeits the privileges of his character, and is subject to the punishment of the law. They should rather have said, that he should be treated as an enemy. But the council only caused the bishop to be taken into custody, and after keeping him prisoner in the Tower two years, when nothing more was to be feared from his intrigues he was set at liberty, and obliged to leave the kingdom. This instance may confirm the principles here laid down; and the like may be said of the following: Brenau, secretary to the Spanish ambassador in France, was surprised treating with Mairargues in a profound peace, to engage him to deliver up Marseilles to the Spaniards. On this he was imprisoned, and the parliament at the trial of Mairargues, likewise interrogated Brenau; but instead of proceeding to condemn him sent him to the king, who ordered him to return to his master, and immediately to depart the kingdom. The ambassador warmly complained of the detention of his secretary: but Henry IV. very judiciously answered, That the law of nations does not forbid putting a public minister under an arrest, in order to hinder him from doing mischief. *Vattel.*

63. If a foreign ambassador, being prorex, committeth here, any crime, which is *contra jus gentium*, as treason, felony, adultery, or any other crime, which is against the law of nations, he loseth the privilege and dignity of an Ambassador, as unworthy of so high a place; and may be punished here, as any other private alien, and not to be remanded to his sovereign but of courtesie. And so of contracts, that be good, *jure gentium*; he must answer here. But if any thing be *malum prohibitum*, by an act of parliament, private law, or custom of this realm, which is not malum in se, *jure gentium*, nor *contra jus gentium*, an ambassador residing here shall not be bound by any of them. *Lord Coke.*

64. *Rights and Prerogatives enjoyed by Diplomatic Agents.* All Diplomatic Agents, representing more or less the constituent power, usage has attached to them a sacred character, and attributed peculiar distinctions and immunities. These attributes are founded on the nature of their functions, and it is, on this principle, that we must judge of all the pretensions which they impart.

Although the public character of Diplomatic Agents sent to a foreign court, is not developed in all its extent, nor secures to the agent the enjoyment of all his rights, until after he has forwarded his credentials, and been recognised and admitted in his character of Envoy, by the government near which he is to reside, it is recognised as a principle now by all the powers of Europe, that the court being once apprised of his mission the public minister, of whatever rank he may be, is entitled to perfect inviolability from the moment he touches the territory of the state to which he is accredited, to that in which he quits it.

It is in accordance with this principle that the government, when it hath once recognised a foreign minister in his quality of representative of his sovereign is held, not only to abstain itself from every act contrary to this inviolability attached to the person of the minister, but also to punish severely, and even as a crime of state, every offence committed against the person of the diplomatic agent; it being always supposed, however, that the offender may have known the person against whom he has committed an act of violence, that he be subject to the jurisdiction of the country, and that the minister have not himself provoked the act of violence committed on his person.

This inviolability due to every diplomatic agent is not annulled by any misunderstanding which may have taken place between the two governments, and least of all, when in case of rupture hostilities have already commenced. *Martens' Manual.*

65. *Exterritoriality.* The dignity of the state represented by the diplomatic agent, as well as the reciprocal interests of the powers amongst themselves, require that their representatives enjoy, with regard to the affairs entrusted to them, an entire independence: the universal law of nations recognises now as a principle, that they ought enjoy exterritoriality, by which they are considered as not having quitted the realms of their sovereign, but as continuing to live out of the territory in which they really reside. The positive law of nations extends the idea of this exterritoriality much farther, since it not only regards the minister as to his person, but even all the people in his retinue, his house, and even his carriages, as being in a foreign territory. The extension of this exterritoriality, granted to diplomatic agents, being connected, as it has been explained, with the positive law of nations, inasmuch as it is founded upon treaties or consecrated by usage, is susceptible of many modifications, which indeed it experiences in many cases. It would be therefore wrong to pretend, in all cases, to the rights of exterritoriality. *ib.*

66. *Independence.* As the Independence enjoyed by the minister of a foreign power is a right granted to him only in his diplomatic capacity, he cannot therefore disclaim it wholly, or in part, without the consent of his constituent. This is the reason also why a foreign minister cannot accept any employ, or title, from the sovereign near whom he resides, without the express permission of his constituent.

When a foreign minister is the subject of the state near which he is accredited, and his constituent consents that he may be considered as such, he stands amenable to the laws of that state, in all matters not connected with his ministry as diplomatic agent. Nevertheless, it should be remarked that every public minister, altho' before a subject of the state near which he is to be accredited, enjoys an entire independence during the whole time of his mission, unless the state to which he is sent refuse to receive him, except under the express condition of being regarded as a subject. *ib.*

67. *Immunity from civil Jurisdiction, enjoyed by Diplomatic Agents.* Although the universal and rigorous law of nations would not except the diplomatic agent from the civil jurisdiction of the state near which he resides, yet exterritoriality founded upon the positive principles of the law of nations would effectually screen him. The only jurisdiction to which he is amenable is that issuing from the tribunals of his own government, unless—

1. If the diplomatic agent have been already a subject of the government near which he resides at the time of his nomination, and have not renounced that jurisdiction.

2. If the diplomatic agent be at the same time in the service of the sovereign to whom he is sent in quality of public minister.

3. If he be able or willing to submit to the jurisdiction of a foreign power. This can take place when he pleads, and thereby submits to the legal forms. The debts contracted by a foreign minister before or during the course of his mission, even if they were incurred on the faith of Bills of Exchange, cannot authorize his arrest, or the seizure of furniture and fixtures in his possession as diplomatic agent. In many states, moreover, the laws of the country forbid expressly any act of this nature by the authorities. *Martens' Manual.*

68. *The Immunity from Criminal Jurisdiction enjoyed by the Diplomatic Agent.* The nature of acts, which are often inseparable from a criminal prosecution, and the inconveniences which thence result to the business with which the diplomatic agent is charged, forbids his subjection to the criminal jurisdiction of the state near which he is accredited.

The tribunals cannot therefore institute any process against his person or against the persons of his suite, neither can they issue a warrant or grant any judgment in the case. If however there be amongst his suit any natives of the country where he resides, who may have rendered themselves amenable to the laws, before proceeding against them it is necessary to obtain the sanction of the minister in order to their appearance before the tribunals: but judgment cannot be followed up, without the agent's consent; unless the offender have quitted his service. *ib.*

69. *The Ambassador is exempt from the civil Jurisdiction of the Country near which he resides.* Some authors are for submitting the ambassador, in civil affairs, to the jurisdiction of the country where he resides; at least for such as have taken rise during the time of the embassy; and in support of their opinion, they allege, that this subjection does no injury to his character. However sacred, they say, a person be, *his inviolability is not affected by suing him on a civil action.* But is it not on account of the sacredness of their person that ambassadors cannot be sued; it is because they do not depend on the jurisdiction of the country whither they are sent; and the solid reasons for this independency may be seen above. Let us here add, that it is entirely proper, and even necessary, that an ambassador should

not be liable to any juridical prosecution, even for a civil cause, that he may not be disturbed in the exercise of his functions.—The ambassador or public minister is at present by the custom and consent of all nations independent of all jurisdiction in the country where he resides, either for civil or military cases.—In the year 1657, a resident of the elector of Brandenburg, in England, was arrested for debt. But he was set at liberty, the arrest judged contrary to law; and even the creditors and officers of justice concerned in the insult were punished. *Vattel*.

70. *How the Exemption of the Minister extends to his Possessions.* A foreign minister is independent of the jurisdiction of the country, and his personal independency as to civil cases would be of no great signification, did it not extend to every thing necessary to his living with dignity, and the quiet discharge of his functions. Besides, whatever he has brought with him, or purchased for his use, as minister, is so connected with his person as to follow its fate. From the independency in which the minister comes, it is not to be supposed that he means to subject his retinue, his baggage, and necessaries, to the jurisdiction of the country. Therefore every thing belonging to the minister's person, as a public minister, whatever is for his use, whatever serves for the subsistence of himself, and that of his household; these, I say, partake of the minister's independency, and are absolutely exempt from any jurisdiction of the country. These things, like the person to whom they belong, are considered as if they were out of the country. *ib.*

71. *The Exemption cannot extend to Effects belonging to any Trade the Minister may carry on.* But this cannot take place in effects manifestly belonging to the ambassador, under another relation than that of minister. What has no affinity with his functions and character, cannot partake of the privileges derived only from his function and character. Should then a minister as it has been often seen, engage in trade, all the effects, goods, money, and debts, active and passive, belonging to his commerce, come within the jurisdiction of the country. *ib.*

72. *Not to Immoveables which he possesses in the Country.* All estates, all immoveable goods, depend on the jurisdiction of the country, whoever be the proprietor, are they to be exempted from it only because the owner of them is appointed to be the ambassador of a foreign power? There is no reason for this. The ambassador does not hold those possessions as ambassador: they are not annexed to his person so as, like himself, to be reputed out of the territory. *ib.*

73. *How Justice may be obtained against an Ambassador.* All private persons, citizens or strangers, who have any demands on a minister, if they cannot obtain justice, from himself, should apply to the sovereign his master who is obliged to do them justice, in a manner most agreeable to the public service. The prince is to consider whether it be fit to recall his minister,

to appoint a tribunal before which he may be sued, or to order delays, &c. In a word, the good of the state does not allow that any person whatever, should disturb the minister in his functions, or divert him from them, without the sovereign's leave; and the sovereign, his supreme duty being obliged to do justice to all, ought not to countenance his minister in refusing it, or wearying out his adversaries, by unjust delays. *Vattel*.

74. *Ambassador's House and Domestic*s. The independency of the ambassador would be very imperfect, and his security weakly founded, did not the house in which he lives enjoy entire exemption, so as to be inaccessible to the ordinary officers of justice. The ambassador might be disturbed under a thousand pretences; his secrets might be discovered by searching his papers, and his person exposed to insults. Thus all the reasons which establish his independence and inviolability, concur likewise to secure the freedom of his house. The right of the character is generally acknowledged in all civilized nations: an ambassador's house is, at least in all the common cases of life, like his person, considered as out of the country. *ib.*

75. There are various grades of public ministers, from ambassadors (which is the highest grade,) down to common resident ministers, whose rank, and diplomatic precedence, and authority, are well known, and well ascertained in the law and usages of nations. But whatever may be their relative rank and grade, public ministers of every class are the immediate representatives of their sovereigns. As such representatives, they owe no subjection to any laws, but those of their own country, any more than their sovereign; and their actions are not generally deemed subject to the control of the private law of that state, wherein they are appointed to reside. He, that is subject to the coercion of laws, is necessarily dependent on that power by whom those laws were made. But public ministers ought, in order to perform their duties to their own sovereign, to be independent of every power, except that by which they are sent; and, of consequence, ought not to be subject to the mere municipal law of that nation wherein they are to exercise their functions.* The rights, the powers, the duties, and the privi-

* In the case of the *Schooner Exchange v. M'Faddon*, [7 Cranch, 116, 138] the Supreme Court state the grounds of the immunity of foreign ministers, in a very clear manner, leaving the important question, whether that immunity can be forfeited by misconduct, open to future decision. "A second case," [says Mr. Chief Justice Marshall, in delivering the opinion of the court,] "standing on the same principles with the first, is the immunity, which all civilized nations allow to foreign ministers. Whatever may be the principle, on which this immunity is established, whether we consider him, as in the place of the sovereign he represents, or by a political fiction suppose him to be extra-territorial, and, therefore, in point of law, not within the jurisdiction of the sovereign, at whose court he resides; still, the immunity itself is granted by the governing power of the nation, to which the minister is deputed. This fiction of extra-territoriality could not be erected, and supported against the will of the sovereign of the territory. He is supposed to assent to it.

"This consent is not expressed. It is true, that, in some countries, and in this, among

leges of public ministers are, therefore, to be determined, not by any municipal constitutions, but by the law of nature and nations, which is equally obligatory upon all sovereigns, and all states. What these rights, powers, duties, and privileges are, are inquiries belonging to a treatise on the law of nations, and need not be discussed here. But it is obvious, that every question, in which these rights, powers, duties, and privileges are involved, is so intimately connected with the public peace, and policy, and diplomacy of the nation, and touches the dignity and interest of the sovereigns of the ministers concerned so deeply, that it would be unsafe, that they should be submitted to any other, than the highest judicature of the nation. *Story's Commentaries.*

76. It is most fit, that this judicature should, in the first instance, have original jurisdiction of such cases, so that, if it should not be exclusive, it might at least be directly resorted to, when the delays of a procrastinated controversy in inferior tribunals might endanger the repose, or the interests of the government. It is well known, that an arrest of the Russian ambassador* in a civil suit in England, in the reign of Queen Anne, was well nigh bringing the two countries into open hostilities; and was atoned for only by measures, which have been deemed, by her own writers, humiliating. On that occasion, an act of parliament was passed, which made it highly penal to arrest any ambassador, or his domestic servants, or to seize or detain his goods; and this act, elegantly engrossed and illuminated, accompanied by a letter from the queen, was sent by an ambassador extraordinary, to propitiate the offended czar. And a statute to the like effect exists in

others, a special law is enacted for the case. But the law obviously proceeds on the idea of prescribing the punishment of an act previously unlawful, not of granting to a foreign minister a privilege, which he would not otherwise possess.

“The assent of the sovereign to the very important and extensive exemptions from territorial jurisdiction, which are admitted to attach to foreign ministers, is implied from the considerations, that, without such exemption, every sovereign would hazard his own dignity by employing a public minister abroad. His minister would owe temporary and local allegiance to a foreign prince, and would be less competent to the objects of his mission. A sovereign committing the interest of his nation with a foreign power to the care of a person, whom he has selected for that purpose, cannot intend to subject his minister in any degree to that power; and, therefore, a consent to receive him, implies a consent, that he shall possess those privileges, which his principal intended he should retain—privileges which are essential to the dignity of his sovereign, and to the duties he is bound to perform.

“In what cases a minister, by infracting the laws of the country in which he resides, may subject himself to other punishment, than will be inflicted by his own sovereign, is an inquiry foreign to the present purpose. If his crimes be such, as to render him amenable to the local jurisdiction, it must be because they forfeited the privileges annexed to his character; and the minister, by violating the conditions, under which he was received, as the representative of a foreign sovereign, has surrendered the immunities granted on those conditions; or according to the true meaning of the original assent, has ceased to be entitled to them.”

* See case in Note [marked 1.] under the present head.

the criminal code established by the first congress, under the constitution of the United States. *Story's Commentaries.*

77. It has been made a question, whether this clause,* extending jurisdiction to all cases *affecting* ambassadors, ministers, and consuls, includes cases of indictments found against persons for offering violence to them, contrary to the statute of the United States, punishing such offence. And it has been held, that it does not. Such indictments are mere public prosecutions, to which the United States and the offender only are parties; and which are conducted by the United States, for the purpose of vindicating their own laws, and the law of nations. They are strictly, therefore, cases affecting the United States; and the minister himself, who has been injured by the offence, has no concern in the event of the prosecution, or the costs attending it. Indeed, it seems difficult to conceive, how there can be a case affecting an ambassador, in the sense of the constitution, unless he is a party to the suit on record, or is directly affected, and bound by the judgment. *Story's Commentaries.*

78. The language of the constitution is perhaps broad enough to cover cases, where he is not a party; but may yet be affected in interest. This peculiarity in the language has been taken notice of, in a recent case, by the Supreme Court: "If a suit be brought against a foreign minister," (said Mr. Chief Justice Marshall, in delivering the opinion of the court) "the Supreme Court alone has original jurisdiction, and this is shown on the record. But, suppose a suit to be brought, which affects the interest of a foreign minister, or by which the person of his secretary, or of his servant, is arrested. The minister does not, by the mere arrest of his secretary, or his servant, become a party to this suit; but the actual defendant pleads to the jurisdiction of the court, and asserts his privilege. If the suit affects a foreign minister, it must be dismissed, not because he is a party to it, but because it affects him. The language of the constitution in the two cases is different. This court can take cognizance of all cases 'affecting' foreign ministers; and, therefore, jurisdiction does not depend on the party named in the record. *Story's Commentaries.*

79. *Jurisdiction over the Retinue of a Minister.* The retinue of the minister, being exempt from the jurisdiction of the state, ought to be subject to the jurisdiction of their master, or of his and their sovereign. It belongs to the two sovereigns to fix on the degree of jurisdiction that the minister shall exercise over his retinue; for this point is very far from being so generally settled as not to admit of further contestations. A minister is never refused a more extensive authority over his servants, than that of a father over his family. Ambassadors claim a sort of civil voluntary jurisdiction over their retinue, and which is very often granted them; but, with respect

* [Of the Federal Constitution.]

to criminal jurisdiction, the right claimed by some ministers of imprisoning their servants in their own house, and of sending them bound to their sovereign is not generally granted them: and much less does their exterritoriality extend to the pronouncing of a criminal sentence, and causing it to be executed. *Martens' Law of Nations.*

80. *Ambassadors not always Inviolable.* The prince that is offended, not caring to make fruitless complaints, and being willing at the same time to preserve some respect for the law of nations, dismisses the minister, without giving his master time to recall him. *Wicquefort.*

81. In England, the foreign ministers, on arriving, give in a list of their retinue,* and those only are exempted from the civil jurisdiction of the state. *Note to Martens' Law of Nations.*

82. *Negotiation—Opening a Conference.* In monarchical states, a minister sometimes negotiates with the sovereign himself in private audiences, either verbally, or in presenting memorials; sometimes with the minister for foreign affairs, or with one or more commissaries, chosen by the sovereign at the minister's request. These conferences are sometimes held at the foreign minister's, sometimes at the apartments of the minister of state, or those of the commissary, and sometimes at the house of a third person.

In republican states, it is customary to name deputies to open a conference with a foreign minister, and this conference is usually opened at the house of the minister, or at that of a third person. The choice of these deputies depends, of right, on the will of the state only. It is an abuse to permit the minister to reject them, as is practised in some places.

The minister often presents in writing the substance of what he has delivered by word of mouth; and there are several republics, which, according to their constitution, can enter into no deliberation on any proposition of a foreign minister, until such proposition be delivered in writing. It is however, a point of much dispute, whether a foreign minister is obliged, on requisition, to give in writing, or to sign, a copy of what he has delivered verbally. *Martens' Law of Nations.*

83. The art of negotiating cannot be reduced to principle: it is an effect of talents; of a court education, and, in part, of the study of the most important negotiations. *Note to Martens' Law of Nations.*

84. *Ratification.* The ratification is not an essential part of a treaty, which is by so much the more evident, not only because a treaty, is a common and public instrument, and the ratification a private and particular one; but also because a treaty would be good, and subsist without the rati-

* NOTE.—On the subject of Retinue, *Vattel* adds, That the ambassador's consort shares his independency and inviolability, and even distinguished honors are paid her; that the regard due to the ambassador, communicates itself to his children, who also partake of his immunities; and that the Secretary of the Embassy, and the Ambassador's private Secretary, are protected by the law of nations, and that the former enjoy immunities independent of the Ambassador.

fication, if it were certain that the treaty, and he that has made it, would not be disavowed.

Notwithstanding that the ratification is no essential part of a treaty, nor even of the function of the ambassador, yet it seems to be become a necessary appendix to the one and the other; since it is by it that a treaty receives its last perfection, and that without it there is no security that it shall be executed. This is one of the reasons why the publication of treaties is not performed, till after the ratifications have been exchanged; tho' it is what is not always nicely observed, for the reason I have just alleged: that the ratification is not of the essence of a treaty, nor does not make a part thereof.

Wicquefort.

85. *Letters and Despatches.* There are some ambassadors who make two sorts of despatches, the one for the affairs they have to negotiate, and where the prince their master is interested, and the other for general news, which they are obliged to inform themselves of, that they may acquaint their master therewith, some act one way and some another; for my part, I think a distinction might be made, and that the ambassador might swell his despatches, with some important affairs, notwithstanding they have nothing in common with his negotiation; but for common news, I should rather be for his putting them in a sheet by themselves, and sending them rather to the minister than to the prince. *Wicquefort.*

86. *Passports and Safe Conducts.* It is generally recognized as a principle at this day, that in time of peace, every government ought to grant a free passage, and especially to travellers not suspected, and above all to those invested with a public character, and in the service of a foreign power. They would appear to require no other passports, than those which are delivered to them by the competent authority of their own government.

But, in order that a Public Minister, or other diplomatic agents, may be enabled, in time of war, to reach their destination in security, it is necessary that he be furnished with passports or safe conducts, by means of which he is authorized to traverse the territory of the foreign state with the government of which his own is at war. *Martens' Manual.*

87. The ministers, of all the orders, are every where authorized to give passports to those belonging to their retinue, to subjects of their sovereign, and to foreigners (at the request of the ministers of their courts), to travel in the country of the sovereign of the minister who gives them. *Note to Martens' Law of Nations.*

88. *When the Ambassador's Function ceases.* The power of the ambassador ceases when he is recalled, and when he has gone through the time of his service. That of ambassadors in ordinary, is almost every where regulated to three years; yet for all that, it is not lawful for an ambassador to depart from a court where he resides without an express order, or the leave of his prince.

An ambassador may go from his post, when in his person the prince whom he represents is injured; so that he is obliged to shew his resentment, and to demand reparation.

That prince who obliges a minister to depart from his court, does indeed put an end to the function of his employment, but does not thereby take away his character. That ambassador of Portugal, to whom the states of the United Provinces notified, That they no longer acknowledged him for an ambassador, and that they would have no more conferences with him, made a very wise answer in telling them, That the one depended on the states, but that the other depended entirely on the king his master only: That it was he who had given him the character, and that none but he could take it from him, and that it was into his hands he would surrender it. *Wicquefort.*

89. *Custom with Regard to qualified Devotion.* The custom generally adopted since the sixteenth century, is, to allow the right of qualified devotion to ambassadors, ministers of the second and even of the third order, when, 1. The religion they profess is not, publicly or privately, exercised in the place where they reside. 2. When there is not already a minister of their court, at whose dwelling they may perform their devotions. If, as is often the case, we see ministers, particularly those of the inferior orders, who do not exercise this right, we are not to infer from thence, that it has been refused them, or that it would be refused them. The exercise of this right, like that of most others, may depend upon circumstances. *Martens' Law of Nations.*

90. *Extent of this Right.* The qualified domestic devotion granted to a minister, includes, 1. The right of keeping a chaplain and other subaltern ministers; and, 2. That of performing, in his own dwelling, all the acts and rites of his religion, the effects of which do not appear in public. But, 3. The exercise of this devotion is granted to the minister, his family, and his retinue, only. Every state may forbid its own subjects, and even foreigners, to frequent the chapel of a foreign minister, and particularly to partake of the sacraments there administered. Yet, latterly, few states are very rigorous in this respect, especially towards the subjects of the sovereign of the minister; nor, indeed, towards foreigners in general. 4. The chaplain of the minister is not authorised to perform his functions out of the dwelling of the latter, though this be sometimes connived at. *ib.*

91. *Means of Ending an Embassy.* Ministers being mandatories of the state, it follows that their letters of credence and full powers must become void, in case of the death of their own sovereign, or of the sovereign to whom they are sent. They must, then, in both cases be provided with new credentials, without which, they can neither continue to negotiate or perform their other ministerial functions, nor demand the honors and prerog-

atives due them as ministers; in such a situation, all they can claim is, their inviolability, till such time as they can quit the state. Nevertheless, in the practice, when circumstances make it reasonable to suppose, that the interruption will not continue any time, the court to which they are sent, not only continues to treat them as ministers, but, sometimes to negotiate with them also. But this depends wholly on the will of the sovereign at whose court they reside.

A minister whose credentials and powers authorise him to act for a certain time only, or *per interim*, can act no longer than during the time specified, or till the return of the minister whose place he supplies. His functions in either case, cease, without his being recalled in form. *Martens' Law of Nations.*

92. *Recall.* An embassy is sometimes terminated by a recall. This takes place, 1. When the object of the mission is accomplished; 2. On account of something that has no relation to the court at which the minister resides; 3. At the request of a court that complains against the minister, and demands his recall; 4. For reasons of state; for instance, by way of retaliation, in consequence of an infraction of the law of nations, and, in general, in consequence of any dispute that threatens a rupture between the two powers. In the latter case, the minister is often ordered to depart, without taking leave; but, in the two former cases (and sometimes even in the latter), the minister, if present, ought to request an audience at taking leave. At this audience, which is sometimes public and sometimes private, he presents his letters of recall, and makes a speech. If the minister be absent at the time of his recall, he may take leave in writing, annexing to his own letter, his letter of recall. In both of these cases, he receives letters from the court where he has resided, which, if there be the least room for it, contain an eulogium on his character and conduct. After this, he receives—his necessary passports. Having thus taken leave of the court, he takes leave of the other foreign ministers, ministers of state, &c. which is done in visits, made in the same manner as his visits of arrival, and, this ceremony ended, he takes his departure. *ib.*

93. *Departure of a Minister without being Recalled.* Sometimes a minister terminates his embassy himself, by quitting the place of his residence, without being recalled. This happens, 1. When, in virtue of his instructions, he may take leave without waiting for a recall in form; 2. When the sovereign at whose court he resides, requests him to take leave, or obliges him to quit his territory. This latter is sometimes done by way of retaliation, or in consequence of the misconduct of the minister, or in case of an approaching rupture. 3. When he quits the court of his own accord, without taking leave. This is done when some gross infraction of the law of nations has been committed against his person. *ib.*

94. *Death of a Minister.* An embassy may be terminated by the death of the minister. Those who have the care of his interment, have certainly a right to insist on his being buried honorably; but, whether a minister, of a religion not tolerated in the country where he dies, is entitled to a public solemn interment in the burial place, is a point which, in default of particular convention, must be determined on the principles of the religion of the country where he resided at time of his death. In case the corpse is sent home to the country of the sovereign who has sent the minister, it is customary to exempt it from the ecclesiastical dues commonly called *jura stolæ*, which are paid by subjects only. *Martens' Law of Nations.*

95. *The Seal.* In the case of the death of a minister, if there be another minister from the same court, or a secretary of embassy, present, he ought to put the seal on all the effects of the deceased. If there be no other minister from the same court on the spot, nor any secretary of embassy, the minister of another court may do it, if authorized so to do by the deceased, or the deceased's sovereign. The sovereign at whose court the deceased resided, is the last person that can claim any right here. *ib.*

96. *Departure of the Retinue and Effects of a Minister.* Though, strictly speaking, the immunities and prerogatives of the embassy cease at the death of the minister, it is customary to leave his widow and retinue in the enjoyment of them for sometime longer; and, if the widow quits the country, the effects of the deceased, as well as her own, are exempt from the *droit d'aubaine*, and from sequestration. But, if she chooses to remain in the territory, the court has undoubtedly a right to fix on a term, after the expiration of which, if she still remains, she is to be considered as subject to the state, and consequently to its laws, jurisdiction and imposts. *ib.*

97. *Embassies which terminate in Part.* Sometimes an embassy is partly terminated by changing it into an embassy of another order. This happens when a minister assumes a more exalted quality; for instance, when a minister of the second order takes the quality of ambassador, on occasions of great ceremony; or, when a minister, after having been vested with the quality of ambassador or envoy extraordinary, quits it, to assume that of minister of the second or third order. In all these cases, the minister takes leave, in the quality which he lays aside, in presenting letters of recall, to which he subjoins letters of credence specifying his new quality. From that time he can claim no honors but such as are due to the quality which his new credentials attribute to him. *ib.*

98. *Ambassador's Expenses.* The minister who is straightened in his allowance, and is thereby obliged to employ all his thoughts on the means how to subsist, cannot labor with application in the affairs of his master, who neglects him.

The ambassador extraordinary cannot well avoid keeping an open table, if he will do honor to his master. At Venice it is not suffered to have commu-

nication with an ambassador: and in the courts of Rome, France and Spain, the ministers never make themselves so particular with the ambassadors, as to go and dine with them, unless they are invited on some extraordinary occasions.* *Wicquefort.*

* NOTE. The salaries of public ministers varied much under the confederation. At first no fixed compensation was allowed; but in October 1779 a salary of £2500 was established for the ministers in France, and of £1000 for the secretaries, in full for services and expenses. This rate, greater than the present remuneration, continued till '81, when Congress resolved that the salary of a minister should not exceed 9000 dollars; but it does not appear that an outfit was annexed. The confederation generally paid their ministers better than is now done; for the expense of living in Europe, particularly on the continent, has increased at least one half the last forty years. We have still remaining a report of the Secretary of Foreign Affairs on the expenses of his department in 1782. *Lyman.*

“Dr Franklin has a part of Mr Chaumont's house at Passy, he keeps a chariot and pair, and three or four servants, and gives a dinner occasionally to the Americans and others. His whole expense, as far as I can learn, is very much within his income. Mr. Adams lives in lodgings; keeps a chariot and pair, and two men servants. He has hitherto retained a private secretary, who will, in the absence of Mr Dana, it is presumed, be paid by Congress. I have lately heard that Mr Adams was about to take a house. Mr Dana's salary, even if he should assume a public character in a country where the relative value of money is so high, that if I well informed, an elegant house may be hired for fifteen guineas a year, is very ample. Of Mr Jay's manner of living, I have been able to give no account, but I should conclude from the price of the necessaries of life in that part of Spain in which he lives, from the port, the court, and the people about it maintain, and above all, from its sitting in different parts of the kingdom, that to live in the same style with Dr. Franklin, his expenses must amount to nearly the double of theirs. But as every conjecture of this kind must be very uncertain, all I can do is to lay before congress the relative expense, as far as I can learn it, between the different places at which the ministers reside, taking Philadelphia for a common standard. Paris, if wine, clothing, and the wages of servants are included, is about twenty per cent cheaper than Philadelphia; Amsterdam, ten; and at Madrid, the expenses of a family are somewhat higher than at this place. But from the unsettled state of those who follow the court, their travelling equipage and charges must greatly enhance this expense. Congress will make their own deductions from these facts, after allowing for their inaccuracy.

“Annual expense of the Department of Foreign Affairs, exclusive of contingencies:—

“Secretary of the United States for the Department of Foreign Affairs.....	\$4000
1st Under Secretary, Lewis R. Morris	800
2d Under Secretary, Peter S. Du Ponceau	700
Clerk, the Rev. Mr Tetard.....	500
	<hr/>
	\$6000

Dr. Franklin.....	£2500 at 4s. 6d.	11,111. 10-90
Mr. Jay.....	2500 “	11,111. 10-90
Mr. Adams.....	2500 “	11,111. 10-90
Mr. Laurens.....	1500 “	6,666. 60-90
Mr. Carmichael.....	1000 “	4,444. 40-90
Mr. Dana.....	1000 “	4,444. 40-90
Mr. Dumas.....	200 Louis do'rs	920
		<hr/>
		57,308. 80-90

Private Secretary to Dr. Franklin.
Private Secretary to Mr. Adams.”

By the law of May 1810, the salaries of ministers were fixed at \$9000, and of charges, at \$4,500, exclusive of one year's salary in the shape of outfit.

Points decided in the District Court of Pennsylvania, relative to the privilege claimed, as Chargé d'Affaires, in the case of T. d'Azambuja vs. Barrozo. March Term, Philadelphia, 1830.

99. The constitution of the United States having made it the duty of the President "to receive foreign ambassadors and other public ministers," it would appear, and, it has been judicially determined, that it has necessarily bestowed upon the executive branch of the federal government the exclusive right to judge of the credentials of the ministers so received, and that the other branches of the government are bound to regard them as ministers, so long as the President continues to treat them as such. *Dist. Court, Phila. D'Azambuja vs. Barrozo.*

100. When the commission of an ambassador is at an end, when he has finished the business on which he came, is recalled, dismissed, or is obliged to go away on any account whatever, his functions cease, but his privileges and rights do not expire at the same time; he retains them till he returns to his principal, to whom he is to make a report of his embassy. It is as a returning minister only, that the defendant can claim privilege. *ib.*

101. The functions of a public minister in many cases cease, as upon the death of his own sovereign, or of him to whom he is sent, the termination of his mission in consequence of his having effected its object, his recall by his own government, or dismissal by that near which he resides, the moral death of his sovereign, or of him to whom he is sent, by abdication, whether it be voluntary or forced by revolution, by essential changes in the form of one of the two interested states; and, when his functions do cease, in any of these or in any other way whatever, the minister still remains entitled to his privileges and immunities, under the laws of nations. *ib.*

102. If a sovereign or state receive under the public faith the minister of another sovereign or state, and afterwards deeming it for the interest of the country or himself, to receive and recognize another, as the minister of a rival sovereign or party, that may have obtained possession of the government of the foreign nation, or, if such sovereign or state think proper to assert that another government exists *de facto*, or *de jure*, in the minister's country; is such received minister of the former recognized government or sovereign, *ipso facto* stripped of his quality and privileges? are his person, his property, and the archives of his mission, previously the property of his sovereign and government, subjected to the jurisdiction of the courts of justice of the country? The affirmative of these questions has been contended for, as the necessary result of the position, that the inviolability of foreign ministers is founded upon the general principle, that they represent their sovereign; and it is said in the case before the court, Don Miguel being acknowledged King of Portugal, the defendant represents him, Don Miguel, and of course cannot assert his privilege against his constituent. The

institution of this suit is said to be evidence that Don Miguel claims the property in question, or, at all events, that he has waived the privilege of the defendant through his authorized Agent the plaintiff.

103. A foreign minister is not to be ill used by way of reprisal; for a prince using violence against a public minister commits a crime which is not to be revenged by an imitation of it. *ib.*

104. When a civil war exists in a nation, the obligation of observing the laws of war is absolute and indispensable to both parties, and, the same which the law of nations obliges all nations to observe between each other. Although foreign states will not interfere as a general rule in such quarrels, yet if a nation or sovereign thinks proper to do so, there is no law to prevent it; and having received and recognized the ambassadors of one party, the same law of nations which regulates the intercourse between the rival factions or princes may not unfairly be presumed to apply so far to the intercourse between a foreign state and one of the parties, as to protect a *received minister* within the jurisdiction of the government receiving him, in the privileges secured to diplomatic agents. *ib.*

105. If by any unforeseen event by which a minister's functions may be suspended or cease, some of which we have enumerated, including *dismissal* by the government or sovereign near which he resides, he ceased to enjoy on that account the exterritoriality or inviolability due to his character, it may well be questioned whether, in cases of danger arising from revolutions or from the perfidious character of a particular sovereign, men of high standing would be willing to submit their fortunes and their persons to the changes and dangers of war, or the caprice or perfidy of such a monarch. *ib.*

106. The grounds of the judgement of the court are briefly these:—We are satisfied that the defendant was received and recognized in a diplomatic character by our government; that he continued to be so recognized until the second October, 1829; that our government detained the plaintiff more than a year before he was received and recognized as the *chargé d'affaires* of Portugal; that the executive having given defendant a passport as a returning minister, must have so regarded him; that we have no evidence from our government that he was deprived of his privileges by Don Miguel, if that monarch had the power to do so, nor that Don Miguel authorized this suit; that the act of plaintiff in bringing the suit in his own name, as *chargé d'affaires* of Portugal, does not *ipso facto* divest the defendant of the privileges attached to him as a returning minister, recognized by the president, and as protected by the passport, issued under the authority of the United States; and, *consequently*, that the defendant is entitled to his claim of *privilege*, under the law of nations and the act of congress of the thirtieth of April 1790, and, *consequently*, to be discharged from the process issued against him. *ib.*

Case of the United States, vs. Juan Galberto de Ortega. Circuit Court, United States, Philadelphia, October Session, 1825. [EXTRACT.]

107. This is a prosecution instituted by the United States for the purpose of vindicating the law of nations, and of the United States, offended as is charged, in the person of a foreign minister, (Mr Salmon,) by an assault committed on him by the defendant. It is a case which cannot fail to be highly interesting to the defendant, and to our government. To the former on account of the punishment which might be the consequence of a conviction; and to the latter, because the government of the United States, like that of all civilized nations, is bound to afford redress for the violation of those privileges and immunities which the law of nations confers upon foreign ministers, and which are consecrated by the practice of the civilized world: a neglect or refusal to perform this duty, might lead to retaliation upon our own ministers abroad, and even to war.

108. It has been insisted that, by waiving his privilege, in becoming a voluntary witness, he has, himself, violated the law of nations and his duty to his sovereign. If this be so, that is a matter to be settled by them. We have nothing to do with it. It deprives him neither of his competency nor of his credibility.

109. That this act amounted to an assault, admits of not the slightest doubt, and brings the case within the provisions of the act of congress, provided Mr Salmon was a foreign minister, which is the point to be considered.

110. Was Mr Salmon a foreign minister at the time the alleged offence was committed? (the judge here recapitulated the evidence of Mr Salmon's official character, and then proceeded.) The counsel for the defendant have gone into a rigid examination of the credentials of Mr Salmon. They deny that any thing short of credentials, emanating from the sovereign, or from some department of his government, charged to perform duties of this nature, could constitute him a minister; and that, even if the appointment of minister under the constitutional government of Spain, was sufficient, it became void, by the revolution, which restored the king to his former power, and rendered a re-appointment necessary.

111. If these were questions fit for judicial inquiry and decision, we should say that the appointment of a *chargé d'affaires* by a foreign minister, upon his retiring from the station to which he had been appointed, is usual in practice, and, if he be recognized as such by that branch of the government which is authorized to receive ministers, and with which he is to transact the business of his own sovereign, his character of minister is unquestionable. And further, that if after the constitutional government of Spain terminated, a re-appointment, or a recognition by the king, of the public character of this gentleman, were necessary, still as he is found, after a lapse of about

two years, the recognized minister of Spain by our government, we ought to presume that his sovereign has done all that he thought necessary to clothe him with that character.

112. But the conclusive answer to these arguments, is, that these are matters of state, with which courts of justice have nothing to do. The constitution of the United States having vested in the president the power to receive ambassadors and other public ministers, has necessarily bestowed on that branch of government, not only the right, but the exclusive right, to judge of the credentials of the ministers so received; and so long as they continue to be recognized and treated by the president as ministers, the other branches of the government are bound to consider them as such. If courts of justice could sit in judgment upon the decision of the executive, in reference to the public character of a foreign minister, and by pronouncing him unduly appointed, or improperly recognized, deprive him of the privileges of a minister, what an extraordinary anomaly would such an interference present to the world?

113. The individual, who should be placed in this predicament, would, for all the purposes of his own or this government, be a minister, the representative of his sovereign, authorized to transact the business with which he is charged, and to bind his sovereign, whilst acting in obedience to his orders; and yet he would be no minister in the view of the judiciary, and, of course, not entitled to the protection due to that character: in other words, a public minister, without the privileges and immunities of one. For notwithstanding this judicial interference he would still continue to be a minister as long as the president should continue to recognize him as such, and no judgment of a court of justice could deprive him of that character, altho' it should withhold from him the sanctity appertaining to it. Besides, if it belongs to courts of justice to meddle with these matters, and, looking beyond the acts and conduct of the president, to decide a person recognized by him to be a minister, to be no minister, surely that branch of government ought to possess all the lights to guide their judgment which are possessed by the president, and should consequently be empowered to call for, and expose to public view, the archives of state, and the correspondence of the executive of this nation with foreign nations, in relation to the subject on which the decision is to be made.

114. The principles which have been stated, are those which governed this court in Liddle's case, decided in 1807, in which it was stated that the certificate of the secretary of state, that the person claiming to be a *chargé d'affaires*, was received and recognised as such by the executive of this government, was the best evidence which could be given of that fact. The only proper enquiry, in short, in cases of this nature, is, has the person claiming to be a foreign minister been received and recognized as such by the ex-

ecutive of this government? If he has, the evidence of those facts is not only sufficient, but, in our opinion, conclusive, upon the subject of his privileges as a minister.

115. A foreign minister, by committing the first assault, so far loses his privilege, that he cannot complain of an infraction of the law of nations if, in his turn, he should be assaulted by the party aggrieved. This was decided by this court in Liddle's case. It was insisted by the defendant's counsel that it was incumbent on the prosecutor to prove that the public character of Mr Salmon was known to the defendant, at the time this transaction took place. If this position could be maintained, still, as it is shewn by the defendant's letters to Mr Salmon, in May, 1824, that he then knew that gentleman to be the Spanish chargé d'affaires; if he had afterwards ceased to be so, it lay on the defendant to prove it. Knowing him once to have been entitled to this character, he acted at his peril, if it should turn out that that character still continued, or if indeed the reverse should not be proved.

116. But in point of law, it is immaterial whether the defendant knew that the person assaulted was the chargé d'affaires, or not. And this point also was decided in the case before referred to of the United States *vs.* Liddle.

[The jury brought in a verdict of guilty on both indictments.]

117. The counsel for the defendant moved for a rule to shew cause, why there should not be a new trial, and gave for the reason that there had been a verdict of guilty upon both indictments, whereas evidence had been given of but one offence.

118. They also moved in arrest of judgement, on the ground that the circuit court had no jurisdiction in this case, it being a case affecting an ambassador, or other foreign minister.

119. On motion of the district attorney, that the defendant should be taken into custody, the court decided that he might be admitted to bail, pending the motion for a new trial and in arrest of judgement. He accordingly gave bail in the sum of 3000 dollars in each case.

NOTES, from Ward's Law of Nations, on "PUBLIC MINISTER'S PRIVILEGES."

Of the sacredness of the persons of ambassadors, we have examples in the oldest histories, and in almost all codes of law; and among the rest, an eminent one in the Jewish story, where David's messengers to Hanan King of the Ammonites, being treated with contempt and insulted by that prince, whom they were sent to console on the loss of his father, it was the cause of dreadful war between the nations, in which seven and forty thousand of the Ammonites were destroyed. So also the great rage expressed by Xerxes against Athens, which ended in the entire destruction of that city in the Persian invasion, was said to be owing to their violence towards his Ambassadors, though coming with an hostile message.

The sack of Rome by Brennus, of Corinth by the Romans, and of Philomela by Frederick Barbarossa in the thirteenth century, was the consequence of the same sort of conduct. Hence, also, those various marked passages in the digest, and the works of the different Roman lawyers, which all tend, in the most explicit terms, to enforce this necessary doctrine. The Arabians, the Chinese, the Indians and the Mexicans, are all found to unite in it, nor is there scarce a point in morality more generally received; the exceptions to it being few in number, and chiefly to be found among the Turks.

It being found in England in the beginning of the 17th cent. that there was no legal punishment for those who violated the privileges of an Ambassador; 7th of Ann. C. 12. was passed, by which the matter was put out of doubt; and whoever now dares to sue out any process against any public minister, or his domestics, are deprived of their trial by jury, and if convicted of the same by the oath of one or more witnesses, before the lord chancellor, and the two chief justices, or any two of them, they are to be deemed violators of the law of nations, and disturbers of the public repose, and to suffer such pains and penalties and corporal punishment, as the said lord chancellor and chief justices or any two of them shall judge fit to be imposed and inflicted. Thus the magistrates, according to Blackstone, [Commentaries, 4, 71] have an unlimited power to proportion the punishment with the crime.

[1.] The occasion of the statute was the well known arrest of the Russian ambassador on 21st July, 1702, who being upon the eve of his departure, and indebted to Thomas Morton, a laceman, and various other tradesmen, they resolved to arrest him according to the ordinary forms of law. This was done with some circumstances of aggravation, for the ambassador, thinking himself attacked by ruffians, defended himself, but was overpowered and ill used by the bailiffs, who carried him to a spunging-house, where he was detained till the Earl of Faversham bailed him. He immediately complained to the queen, of this violation of the law of nations, and the Count de Gallas, and the Baron Spanheim, ambassadors of Sweden and Prussia, together with several other foreign ministers, joined in the complaint. The queen was indignant at the affront, and Morton, the attorney, and all who were concerned in the arrest, to the number of seventeen, were committed to custody and ordered to be prosecuted with the utmost severity of the law. Most of them were brought to trial, on an information of the attorney general, and were found guilty of the facts, though the question how far those facts were criminal, was reserved to be argued before the judges; which question was never determined. Mr. Boyle, the secretary of state, writing to the ambassador, speaks of the attempt as "desperate and dismal," and the privy council were several times summoned of his satisfaction. As far as punishment, however, was concerned, none could be obtained, and the affronted minister was forced to be content with his liberty, the reimbursement of his expenses, and the enactment of a law, by which the above mentioned provisions were made in future. The preamble, however, having merely observed, that the Muscovite ambassador had been taken out of his coach by violence, in contempt of the protection granted by her majesty, without taking notice of the breach of the law of nations, (Black. Comment. 1.) "which is superior and antecedent to all municipal laws; the foreign ministers in London met again together, and procured the addition of these words, "contrary to the law of nations and in

prejudice to the rights and privileges which ambassadors, and other public ministers, authorised and received as such, have at all times been thereby possessed of, and which ought to be kept sacred and inviolable." With this act of parliament elegantly engrossed, and an apology for not being able to punish the persons of those who had affronted his minister, the czar, who at first insisted upon their deaths, was at length induced to be content; and thus ended this delicate affair.

Comyns, though he mentions not the punishment of their infraction, yet seems to hold that all process against ambassadors was void, even before the 7th Anne; since in laying down the law of ambassadors, he quotes the opinion of Grotius, concerning their immunity, before he comes to mention the statute. And it is therefore not improbable, that he thought that opinion was a part of the common law of England, although much elucidated and strengthened by the statute. Blackstone asserts in terms, that the common law of England recognizes the rights of ambassadors in their full extent, by immediately stopping all legal process, sued out through the ignorance or rashness of individuals, which may intrench upon the immunities of a foreign minister, or any of his train; the more effectually to enforce which, he continues, when violated through wantonness or insolence, it is declared by the statute 7th Ann, &c. &c. Hence it should appear, that in his opinion, the statute did not create any new law, except as far as the punishment of the persons violating the law of nations, was concerned; and that the rest was merely declaratory of what the common law had always been.

[2.] Whichever way this may be, in other times probably the violators of law would have been severely punished, even without such a statute, as may be collected from the following case: In the year 1627, one Phillip Weiseman, a German, who was a kind of Purveyor to foreigners in England, having bargained to defray the ambassador of Denmark's expences at a certain rate from Paris to London, made some unreasonable demand upon him on his arrival at the latter place, and that, says Finet, "with much touch to his honor." The ambassador complained to the lord chamberlain, who acquainted the king, order was made for the lord president of the council, the lord Chamberlain, and the vice-chamberlain "to hear and determine" the business. The cause was examined, and the following record and sentence was the consequence:

"Henry, earl of Manchester, president of the privy council of his majesty of Great Britain; Phillip, earl of Montgomery, Great Chamberlaine, and of the council of state, to his said majesty, being commissioners and deputies for his said majesty, to hear the protestation which the Lord Rosenbranc, ambassador extraordinary to his majesty of Denmark, shall make against Phillip Weiseman, for certaine injuries and calumnies which he should speak and write against his person, in prejudice of the honour of the king his master, and of his own particular reputation, having by express commandment from his majesty adjourned, and examined the foresaid Phillip Weiseman, and having understood at the same time, by confrontation, some of the domestiques of the said lord ambassador, and others; as also examined his letter to the said lord ambassador: we finde that the said Phillip, without any reason or cause, having received more monies than were agreed upon, according to his own confession, hath maliciously and impudently blazed abroad, such words and writings without having regard to the honour of the person whom he presents, or to his own particular quality: Therefore we have inordered that he be put in safe custody, untill he give satisfaction to the aforesaid ambassador, if he thinks it not fit to bring him before the king his master, to be punished according to his demerit. In faith whereof we signe this present instrument this 14th of April, 1627. Manchester—Montgomery—Carleton."

The fellow, continues Finet, persisting stuborne and most averse from submission, was after four or five days restraint in the house of a messenger, delivered by a warrant from the lord president, and the lord Chamberlaine, from the messenger's hands to the ambassador's; who, causing him to be imprisoned in the Counter, by virtue of the said warrant, which gave him power to dispose of him; he was upon the point of being sent to Hamburg; but his

stomach lessening, and his submission made with acknowledgment of his guilt, both by word and writing, he was at last set at liberty.

[3.] In the year 1584, not long after the opinions delivered in the bishop of Ross's case, Mendoza, the Spanish ambassador in England, having conspired to introduce foreign troops, and dethrone the queen, it was a matter of difficulty how he should be punished. Had the council thought the opinions of Lewis Dale, and the other civilians good law, they probably would have acted upon them; for here was a case, precisely similar to that on which they had been consulted. They however took the opinions of the celebrated Albericus Gentilis, then in England, and of Hottoman in France, who both asserted that an ambassador, though a conspirator, could not be put to death, but should be referred to his principal for punishment; or, (according to Hottoman) sent away by force out of the country. In consequence of this Mendoza was simply ordered to depart the realm, and a commissioner sent to Spain to prefer a complaint against him.

[4.] Three years afterwards there was a conspiracy not only to dethrone the queen, but to put her to death. The circumstances are these: L'Aubespine, the French ambassador, being wholly devoted to the Queen of Scots, endeavored to procure the assassination of Elizabeth. For this purpose he tampered both by himself, and secretary, with William Stafford, a man about the court. Stafford refused to be concerned in it himself, but recommended Moody, a noted ruffian, then in Newgate, to be the instrument. With this man conferences were held by Trappy and Cordalion, both of them secretaries to L'Aubespine. It was proposed to take off the queen by poison, or to blow her up by firing twenty pounds weight of gunpowder under her bed. Neither method was approved by Trappy, "who wished for such another resolute fellow as had assassinated the Prince of Orange." In this state of the affair Stafford revealed the plot. Trappy was arrested, and both he and Stafford confessed the whole before the council. The ambassador was sent for, but said "he would not hear any accusation to the prejudice of the privileges of ambassadors." When Stafford was brought in, however, he assented to his knowledge of the matter, but said it was first propounded by him. Stafford, on the contrary, protested on his salvation that the first he knew of it was from the ambassador. Lord Burleigh then reproached him with the design; yet never thought of trying him. All that we can find is, that he bade him beware how he committed treason any more; that the queen would not by punishing a bad ambassador, prejudice the good; and that he was not acquitted from the guilt of the offence, though he escaped the punishment.

[5.] In 1601, the Comte de Rochpot, being ambassador from France to Spain, his servants had a quarrel with some Spaniards at Valladolid, in which two of the latter were slain, of whom also one was a priest. The magistrates seized the criminals with a view to try them, but upon Rochpot's complaint, and retiring from Spain, they were delivered into the hands of the Pope, at Rome, and finally released.

[6.] Henry IV. of France, having given a promise of marriage to Mademoiselle D'Entragues, and afterwards marrying Mary de Medecis, the Spanish Ambassador De Zuniga, after the birth of the Dauphin, plotted with the father of the lady, and the Comte D'Auvergne, to carry her off to Spain, together with her son by Henry, whom they meant to consider as the real Dauphin. The plot was discovered: D'Entragues and D'Auvergne were tried and imprisoned; but though the crime of the ambassador was manifest, the king would not suffer him to be punished.

[7.] The Spaniards had before this, in time of full peace, plotted with Merargues, Syndic of Provence, for the surprise of the city of Marseilles. The affair was carried on by Merargues and Brunceau, secretary of the Spanish embassy, under whose garters a paper containing the particulars of the treason was discovered. Merargues was tried and put to death, but the Spanish ambassador demanded Brunceau as his secretary, and under the protection of the law of nations; and the King, Henry IV. having consulted the most able jurists at Paris, delivered him up with an order for him to depart the kingdom.

[8.] In 1603, the Duc de Sully, then Marquis de Rosney, being ambassador at London, one of his retinue quarrelled at a brothel with some English, one of whom he killed. The populace rose, but were quieted by the Lord Mayor, who demanded justice. Justice, however was not done by the magistrate, but by Sully himself; who assembled a council of Frenchmen, condemned the man to death, and not till then, delivered him to the civil power. James I. pardoned him, but no attempt was made to try him by the English law, and Sully delivered him up solely for execution.

[9.] In 1618, Alphonso *de la Cueva*, Marquis de Bedmar, ambassador of Spain, contrived the famous conspiracy against Venice. It is needless to go into particulars of that celebrated plot. Suffice it to say, that the town was to be set on fire, the citizens and nobles murdered and the government overturned. The facts were proved against Bedmar; arms and fireworks were found in his house, and letters concerning their application. But though the populace endeavored to destroy him, the senate protected him from violence, and contented themselves with sending him to Milan, and requesting the king of Spain to recall him.

[10.] In the reign of king James I. of England, the Spanish ambassadors Inoyosa and Colonna, endeavored to breed a disturbance in the country, by informing the king that the Duke of Buckingham meant to imprison him by means of the parliament, and to transfer the regal authority to the Prince of Wales. Both the court and the parliament deemed this a scandalous libel, but knew not how to proceed with the ambassadors.

[11.] Sir Robert Cotton, who was consulted, wrote a tract called "A Relation of the Proceedings against Ambassadors who had miscarried themselves," in which he asserts "that an ambassador, representing the person of a sovereign prince, he is by the Law of Nations, exempt from regale tryale; that all actions of one so qualified, are made the act of his master, until he disavow them; and that the injuries of one absolute prince to another, is *factum hostilitatis*, not treason, so much doth public conveniency prevail against a particular mischief." He then states various examples of ambassadors who have had violence put upon them by way of prevention, rather than punishment; none of them amounting even to a design to try them; and then recommends that some of the chief secretaries should wait upon the ambassador of Spain, and by way of advice, desire him to keep his house, for fear of the people; that the Prince of Wales and Duke of Buckingham should complain of the calumny in parliament; that both houses should, in consequence, wait upon the ambassador, to request to know the authors of it, in order to try them legally in parliament; that if he refused, he should then be confined to his house, and a formal complaint sent against him to the king of Spain, requiring such justice to be done upon him, as by the leagues of amity and the law of nations is usual. If the king refused, it would then be "*transactio criminis* upon himself, and an absolution of all amity, amounting to no less than war denounced." This was the opinion of the English court, complaint was made to the king of Spain, and the ambassador allowed to depart.

[12.] In 1657, a domestic of Monsieur de Thou, ambassador at the Hague, endeavoring to commit violence upon a woman in the streets, he was detected by the patrol and carried to the guard house, in order to be delivered to the civil tribunal. He was, however, demanded by De Thou, of the deputies of Holland, as a privileged person, and restored by the municipal power to receive justice from the hands of his master.

[13.] In 1666, a hunting party being made by the court at Vienna, a gentleman in the suite of the Spanish Ambassador, endeavored to press into a place reserved for the nobility, and was stopped by the count de Kevenhuller, who being treated with impertinence, gave him several strokes with a cane. The affront produced a serious affray some days afterwards, the ambassador's train in revenge setting upon the Count in his coach, firing into it with pistols, and piercing it with swords, by which the coachman was wounded, and the Count scarce able to save himself. The guard arriving, the Spaniards retreated to the Hotel de Ville, where they defended themselves till two were disabled, and then yielded. The ambassador flew

to support his domestics, and endeavored to force the Hotel de Ville where they were imprisoned, but failing, went to court to demand reparation, which he did in such insulting terms, that he was himself put into confinement. In the end, instead of the punishment of the Spaniards, who had been guilty of the greatest outrage, a compromise was made. The ambassador made excuses for his own passion towards the emperor, for which he and his domestics were released, and the Count de Kevenhuller declared upon his honor that he did not know that the person whom he originally struck had belonged to the Embassy.

[14.] In 1654, M. De Bass, minister from France to Cromwell, was accused of a conspiracy against his life. The council endeavored to make him undergo examination, but he refused, saying, "that although he would communicate with Cromwell personally, and prove to him that he was not privy to the design; yet he would not submit to interrogatories before a judge; for being a public minister, he would by so doing offend against the dignity of his master, to whom alone he was accountable for actions." The council retired to consult what was to be done with him, and he persisting in his refusal to answer, they contented themselves with ordering him to depart the country in four and twenty hours.

[15.] In the reign of Charles II. the Spanish ambassador, enraged at the approaching match with Portugal, endeavored to raise a sedition in the army, and the people, by scattering inflammatory papers among them; at which the king was so incensed, that he ordered him to depart the realm, and told him that he would send a complaint to his master, from whom he would expect that justice should be done him.

[16.] Even the Turks have sometimes acknowledged the doctrine we are discussing. In 1646, the ambassador of England at Constantinople, was summoned by the merchants before the Divan to answer some complaints. The ambassador representing his privilege, the grand vizir said, "he was aware that it was a thing unheard of to summon an ambassador before the divan, which would destroy the rights of ambassadors, and the law of nations." It is true, he was afterwards arrested and sent home, but that being solely owing to the revolution in England, and the arrival of a new minister, has nothing to do with the point.

And thus we have quoted a variety of examples which are in point to prove the principles we have adopted. They contain a number of positive, and some of them very serious breaches of the law of the country where the ambassadors have resided, yet shew the fullest exemption from the power of the civil tribunals. Some authors, indeed, have allowed that they are exempt from answering for breaches of the municipal law, which they call "*malum prohibitum*;" but insist that nothing can prevent them from being responsible for crimes against the law of nations, which are *mala per se*. See *Lord Coke's opinion, Page 402 ante, No. 63.*

[17.] On the first of November, 1653, Sa, and two others of the embassy, talking of some matters in the new exchange, were set right as to a fact by one Colonel Gerhard. One of them gave him the lie, and a scuffle ensued, in which Gerhard was severely wounded, and would have been killed, had it not been for another gentleman, who drew in his defence. The Portuguese resolved upon revenge, and a more atrocious or deliberate scheme could not be devised. They came on the next night to the number of fifty, to the new exchange, armed with swords, pistols, and coats of mail, and attended by two or three coaches with ammunition, consisting of hand grenades, bottles, and little barrels of powder, and bullets. Their scheme seems to have been, to have murdered every one promiscuously; being said to have put every one to flight, and to have pistolled, cut, and wounded many. In this situation, a Mr. Greenaway coming to see what was the matter, they shot him through the head, and wounded Col. Mayo, and Messrs. Howard and Carter, who were passing by. It was not till this time that the horse-guards came and took several of them to prison, the rest retiring firing at the guards.

The Ambassador was afterwards required to deliver up others of the delinquents, which he complied with, and his brother was among them. He interceded for his brother, but Cromwell resolved, if he could, to try him by the law of the land. He, therefore, consulted

the most eminent of the professors of the civil law, to settle how such a barbarous murder might be punished. But these, disagreeing among themselves, he left the decision of the affair to a court of delegates, consisting of the Chief Justice, and two other judges, three noblemen, and three doctors of the civil law. Before these, Sa was examined. At first he was supposed to be a colleague in the Embassy, and he vaunted himself that he was the king's ambassador, and subject to the jurisdiction of no one else. He was made, however, to produce his credentials, by which, all that could be proved was, that the king intended in a little time to recal his brother, and give him a commission to manage his affairs in England. This being judged insufficient to prove him an ambassador, he was, without any farther regard to the privilege of that character, ordered, as well as all the rest, to plead to the indictment.

[The result was, that Don Pantaleon Sa, brother to the Portuguese Ambassador in England (in the time of Cromwell) was tried, found guilty, and executed for murder.]

Such is the accurate statement of the affair till it came to a jury, as it appears from the account of Zouch, a Civilian of eminence, and himself a delegate in the cause; and I have been thus particular in these preliminary steps of it, in order the better to ascertain what was the real opinion of the English lawyers upon the main point in question. For I think it is evident from this account of the matter, (and one of more authority can hardly be met with) that had Sa been actual ambassador, instead of forming part of the suite, the proceedings against him would have been the same with those in the cases cited above. All, therefore, that can fairly be drawn from this precedent, as to the decision of the then existing law of England is, that the suite of an ambassador, if they committed murder, were liable to be tried for it by courts of the country. Zouch asserts expressly, that his own opinion upon the main question, founded upon Grotius, and the best authors agreed with them as to the exemption of ambassadors themselves; and it should appear, from his *Solutio Questionis*, that if Sa could have proved that he was an actual ambassador, his plea before the delegates would have been allowed.

Lord Hale, in that part of his work which treats of the proceedings authorised by the law of England against ambassadors, rests the whole upon cases. Upon these cases it is, that he relies upon the authority in saying that an ambassador committing treason can only be treated as an enemy, and not tried as a subject. Upon this one case (of Sa) also it is, that he founds his position, "That if the ambassador or his associates, commit any other capital offence, as rape, murder, or theft, they may be proceeded against by indictment in the ordinary course of justice, as other aliens committing like offences. [Pleas of the Crown. 1. 99.]

But if we are right in what we have shewn to be the true extent of the precedent of Sa; though it may apply to the associates of an ambassador, it cannot apply to the ambassador himself. For authority to try him for rape, or theft, Hale quotes no case at all.

"But for murder," says Foster, "and other offences of great enormity, which are against the light of nature, and the fundamental laws of all society, the persons mentioned in this section, are certainly liable to answer in the ordinary course of justice, as other persons offending in the like manner are. For though they may be thought not to owe allegiance to the sovereign, and so be incapable of committing high treason, yet they are to be considered as members of society; and consequently bound by that eternal universal law, by which all civil societies are united and kept together."

From any thing therefore, which Foster has laid down concerning this point, there is nothing in it which appears so universally binding, as to preclude all exception; and that the case of an ambassador committing murder was not an exception, should have been proved by cases, which Foster has not endeavored to shew. Whereas, there are against him both reason and cases, which we have shewn, and we may perhaps therefore be not far wrong in considering these tenets to be not sufficiently made out, as forming part of the law of England.— (See Blackstone, 1. 253.)

[18.] On the 29th of January, 1717, the government of England having certain information of a conspiracy to invade the country and dethrone the king, contrived by Gyllenburg, the Ambassador of Sweden, at that time at peace with Great Britain; they ordered the arrest of that minister, which was accordingly effected. General Wade and Colonel Blakeney to whom the charge was intrusted, found him making up dispatches, which they told him they had orders to seize; and they even insisted upon searching his cabinet, which, upon the refusal of his lady to deliver the keys, they actually broke open. Gyllenburg complained of these proceedings, as a direct breach of the law of nations, and some of the foreign ministers at the court of London expressed themselves to the same effect; upon which the Secretaries of State, Methuen, and Stanhope, wrote circular letters to them, to assign reasons for the arrest, which satisfied them all except Montleone, the Spanish Ambassador, who in his answer observed, that he was sorry *no other way* could be fallen upon for preserving the peace of the kingdom, than that of the arrest of a public minister, and the seizure of his papers, which are the repositories of his secrets, two facts which seemed sensibly to wound the law of nations. The observation, however, answers itself; since the confession that there was *no other way*, proves that this extremity was the simple consequence of those universal laws, which ever will, and must overcome all other; I mean legitimate necessity, and self defence.

[19.] A criminal at Madrid in the time of Philip II. having escaped from justice, took refuge in the house of the Venetian ambassador, and was pursued by an officer, who was told from a window by the ambassador himself to enter the house, but who was immediately set upon, ill-treated and driven away by the gentlemen and servants of the embassy, the officer complained to the president of Castile, who took information of the whole affair, and ordered the provosts to send and seize the delinquents. Hearing that they were to be resisted, the provosts, instead of sending, went themselves, and upon entering, found the ambassador armed with sword and buckler, and the whole suite prepared to oppose them. They nevertheless without violence, contrived to amuse the person of the ambassador, while their officers seized several delinquents, among whom was Badoaro one of his relations. These were tried by the tribunals of the country. Badoaro was condemned to be beheaded; several valets to be hanged; and others to be flogged; and the king wrote to the republic of Venice, and to all other christian powers, acquainting them that his will and desire was, that when his ambassadors committed any crimes unworthy of their station, they should be stripped of their privileges and judged by the laws of the kingdom where they reside.

This case is as strong as it is possible to be against the positions in question. It is to be found in Anthony Vera's *Parfait Ambassadeur*, and Wicquefort endeavors to shake its authority by saying he never met with it in any other history. It is, however, also to be found in Wotton's account of Christendom, and the Legatus of Frederick Marslaer. De Callieres seems content in thinking that justice was done, and yet the dignity of an ambassador preserved. But according to all the foregoing reasoning, whatever may have become of the ambassador himself, it must be confessed that the whole law concerning the inviolability of embassies as we have reviewed it, was absolutely destroyed. All then that we can fairly say upon this, and the case of Sa, is, that the one happened before the doctrines which relate to the suite were well understood or disseminated; and that the other forms an exception to the general usage, which will not impugn the general law. Since, according to the observation of Bynkershoek, upon one of these very examples, "one single decision, of one single state, cannot do away the Law of Nations itself.

120. *Message from the President of the United States, in Relation to the Consular Establishment of the United States:*

WASHINGTON, MARCH 2, 1833.

To the Senate: I transmit herewith, for the consideration of the Senate, a report from the Secretary of State, in relation to the consular establishment of the United States.

ANDREW JACKSON.

REPORT. *To the President of the United States:* SIR:—The report which you directed to be made on the consular system of the United States has hitherto been delayed, from the desire of laying before Congress all the facts and observations necessary to a proper course of legislation on a subject so important to our commercial interests. These could only be procured from distant and various sources; and it was soon found, from the course of public business, that no final action could be expected, on a subject in which such a variety of opinion was to be expected, at this session, when other objects seemed to engross the attention of the Legislature. Even at this late day, the information I expected is far from being complete; and additional facts may perhaps induce different deductions before the subject can be finally acted upon. In the meantime, what is now presented, in obedience to your direction may show the inconveniences of our present system, if one it may be called; prove the necessity of some change; and, by presenting the several remedies for the evil that have occurred to me, perhaps indicate one that may receive the sanction of legislative wisdom.

To a nation essentially commercial, like the United States, the consular functions are highly important, and ought to be strictly defined. They are performed in a foreign country, often in collision with the officers of the nation, in which they are placed; and therefore public, as well as private interests, are put in jeopardy by their errors or faults. Frequently, commissioned to reside in countries where there is no public Minister of their country, Consuls are forced, in defence of their fellow-citizens, to assume, occasionally, diplomatic power, by addressing themselves directly to the government: without proper instructions giving them by law, they may do this unadvisedly, or indiscreetly, and thus involve their country in difficulties and disputes.

In the various acts they are called on to perform in relation to the commerce of their fellow-citizens, they may assume powers injurious to their interests, or refuse to act, from ignorance of their duty, where the case would seem to require it. In most of these circumstances, they have no legal adviser, and no rule prescribed by law to guide them, in the delicate and important questions that are continually calling for their decision. At home, every officer is surrounded with the means of obtaining information and advice; yet, at home, every officer has his duties prescribed and marked out by law. Abroad, an officer is entrusted with the most important functions, out of the reach of control or advice, and is left with, comparatively, no written rules for his guidance. In their absence, he frequently puts such construction on his powers as best suits his interest, and avoids taking any responsibility that is not forced upon him. No written rule being given to which the merchant or the ship master can refer in his transactions with Consuls, constant bickerings are the result, injurious to the interest of trade, and the reputation of the country. This might, in a great measure, be avoided by laws defining the rights and duties of Consuls, establishing a table of fees for their services, and prescribing clearly the duties of American masters, mariners, and merchants, in relation to their Consuls in foreign ports. In all this, our present system is woefully deficient: Two or three meagre laws, and an equivocal reference to the laws of nations, with some usages of uncertain authority, and differing in different ports, being the only guides afforded the parties interested, so that officers most desirous of restraining themselves within the bounds of duty, and of doing all that it requires, know not how to conform to laws of which they are ignorant, whilst those of looser principles find in this uncertainty the means of vexatious extortion.

The first law on the subject was passed on the 14th day of April, in the year 1792; and its principal object was, as the title of the bill imports, to give effect to the con-

sular convention with France. It, however, contains some general provisions, which, since the French convention has been annulled, have formed the ground work of our consular system. These provisions extend only to the authority given to Consuls to receive protests and declarations; to give copies under the consulate seal; to settle the affairs of American citizens who shall die within the limits of the consulate; to secure property saved from wrecks; to provide for the deposit of the ship's papers; and to afford relief to destitute American seamen. These are the subjects in relation to which specific duties are assigned by the law abovementioned, and an other passed 28th February, 1803; but more enlarged, general, and undefined powers are given by the 9th section, which enacts that the "specification of certain powers and duties to be performed by Consuls and Vice-Consuls, shall not be construed to the exclusion of others resulting from the nature of their appointments, or any treaty or convention under which they may act."

These are all the statutory provisions on this important subject; a bare perusal of which, will show how many points are left unprovided for. Among these, that which creates the most frequent cause of misunderstanding between the Consuls and masters of vessels, is the want of a bill of fees, extending to all the acts which a Consul may be called on to perform.

The general reference to powers and duties resulting from the nature of the appointment, is also the source of much difficulty. No instructions having yet been given, either by the Legislative or Executive Department, to define these powers, or to define their powers, or to prescribe the compensation to be given for the exercise of those duties thus indefinitely alluded to, the Consul is left in the one case to the exercise of his own, often, very imperfect, knowledge of the general duties of his office; and, in the other, to the estimate he may form of the value of his services.

A more precise designation of the duties of Consuls is therefore of the first necessity; and if the system of compensation by fees should be persevered in, it would require a more particular table of those which ought to be received.

The first, as far as the powers of the Department could extend, has been attempted by the circular instructions annexed to this report; but legislative action seems absolutely necessary to extend the powers where they are deemed inadequate, or to restrict them where they may be supposed to be too extensive.

The subject of compensation is one that has engaged my close attention since I have had the direction of the Department, and I have no hesitation in giving a decided opinion, that the exaction of fees has been the source of misunderstandings between our Consuls and the masters of vessels, injurious to the reputation of the country—that it is degrading to the officer who is obliged to wrangle for them—is unequal in its operations,—oppressive to our commerce,—and ought either to be wholly abolished, or so modified as to make the operation of the system more equal, by apportioning the amount to the size of the vessel, or, if possible, to the value of the cargo.

But I cannot avoid expressing the opinion that these officers, like all others, should be compensated by adequate salaries, and should be prevented from engaging in commerce. According to the present system, our Consuls, with very few exceptions, are commission merchants, anxious, like all other merchants, to increase their business and obtain consignments. In many, perhaps in the greater number of cases, the place is sought for chiefly for the advantage and the influence it will give to extend the commercial affairs of the officer. Can it be believed that this official influence will always be properly exercised? When it is, will not contrary suspicions be entertained? This must create jealousy, detraction, and all the arts that rivalry will exercise and provoke, amidst which the dignity of the public officer is degraded, and his influence with the foreign functionaries lost. The Consul at least, therefore, if not the Vice-Consul, ought not to be salaried officers. They will never, then, by their countrymen, be suspected of acting towards them as their commercial interest, not as their duty, requires; and their complaints in behalf of their fellow-citizens will be attended to, because they will not be liable to the suspicion of advocating their own interest; consular offices would no longer be held in counting-houses, nor the Consul himself, called from defending the case of an injured American citizen, to sell a barrel of sugar, or to despatch the settlement of an account. All fees paid to pub-

lic officers are taxes; fees to Consuls are taxes on commerce. Are such taxes, in the state of our finances, necessary? Are they just? Are they equal? Are they easily collected? None of these questions, it is believed, can be answered in the affirmative. They are certainly not necessary; the customs alone produce more than sufficient for the payment of all the expenses of government. Why should an extra tax be laid upon commerce, which already bears the whole expense of government, for the support of a particular set of officers? Should it be said that those who derive the benefit should pay the expenses, it would not seem to be a satisfactory answer. It is not for the sole benefit of the ships which touch at a consular port that the consular office is created: the whole country is interested in the establishment. The concerns of its general commerce, the protection of its citizens abroad, its reputation, is concerned. But the principle itself is a false one. Public officers are established for the general good; and though particular individuals may have more occasion for the exercise of these functions than others, yet those who are under the necessity of applying for their interposition never can, with justice, be exclusively taxed for the expense of the department which is organized for their protection. The judge receives a salary, yet not one-tenth of the community are suitors in his court. So of all the salaried officers of government; all the exceptions to the rule are abuses. The evils of such a system are apparent. The question of compensation varies according to the place and circumstances of the time. It can rarely be accurately known. The collection gives rise to illegal exactions and oppressions, to disputes, to the loss of official dignity, to the suspicion of bad motives where even they do not exist. In no case are these evils more apparent than in the case of consuls. At a distance from all superintendance, they have greater opportunities for illegal exactions, and that very circumstance makes them more liable to suspicion.

It is easily conceived that, in the infancy of our government, when we were burdened with a great amount of public debt, every available mode of supporting the different institutions of the country should be resorted to, and that therefore the examples set by other nations of supporting particular offices, by the exaction of fees, should be followed; but now when one uniform mode of collecting revenue yields a product more than sufficient for all the wants of government, why should others, liable to so many objections be continued? Nor ought the amount to deter us. According to the list hereto annexed, we have one hundred and fifty-six consuls, vice-consuls, and commercial agents. By a proper distribution these may be classed as follows:

Thirty consuls, with salaries averaging \$2,000 will amount to	-	\$60,000
One hundred and twenty-six vice-consuls and commercial agents, with salaries averaging \$1,000, is	-	126,000
Total annual sum,	-	<u>\$186,000</u>

This is calculated on the present establishment. It is however probable that some additions may be necessary; but as they will be vice consular establishments, the increase for many years cannot be considerable. When it is considered that not only the respectability of the government and security of its citizens abroad will be promoted by this change, but that it is chiefly intended for the protection and extension of that commerce from which the whole revenue of the country is derived, the expense will not be thought too great for the objects.

Such a provision ought to be accompanied by prohibitions of any interest in commerce, with clear definitions of official duty, and heavy penalties for neglecting them: and we might then see these important offices filled, as they should be, by men of talent, education, and respectability of character, who would be the protectors, not the rivals of our merchants, who would command the respect of the functionaries of the ports in which they reside, do honor to our national character, and whose whole time would be devoted to the duties of their office.

Until some change could be made, I have thought it my duty to prepare a set of instructions which might introduce order and uniformity into the system, and cor-

rect as many evils as could be done without legislation. These have been referred to before as forming a schedule to this report. EDW. LIVINGSTON.

General Instructions to the Consuls and Commercial Agents of the United States. The following instructions are intended to supersede those which have at different periods, been issued from this department, embodying directions to those officers, and arranging them under proper heads, for the purpose of making them easily referred to, and producing uniformity in all the consular proceedings.

121. [CHAP. I. *Of the Duty of a Consul on his appointment before he enters on the exercise of his Official Duties.*] ART. 1. As soon as a Consul receives notice of his appointment, he is required to execute a bond, with such sureties as shall be certified by the district attorney of the United States for the district in which he resides, to be sufficient. He is to transmit the bond executed to this department for the approval of the Secretary of State, and, if he receives no notice that further security will be required, he will, with all convenient despatch, after receiving his commission and instructions, depart for the place of his destination, giving notice to the department of the time of his departure, and of the vessel in which he embarks. On his arrival at the place of his destination, he will give notice to the department of the fact. If the Consul appointed be, at the time of his appointment, a resident of the country to which he shall be appointed, his consular bond must be executed by him, and transmitted to the United States for the purpose of being executed by his sureties, who must be residents of the United States.

122. [CHAP. II. *Of the formalities to be observed by a Consul or Vice Consul after entering upon the duties of his office.*] ART. 2. The first duty of a consul, on his arrival, will be to transmit his commission to the minister of the United States, if there be one near the government of the country to which he is sent, to the end that he may obtain the usual exequatur. This he must see made public in the manner usual in such country; and he will then apply to the person having charge of the consular seal, and the archives of the consulate to which he is appointed, for the delivery thereof, making an inventory of the papers and other effects they may contain, or verifying a former inventory, if any such has already been made, and passing a receipt for the same; transmitting a copy of such inventory to the department, if it has not already been done; or, if any additions have been made to such archives since the last transmission, then sending a copy of the additional articles not contained in the former inventory.

ART. 3. If there are any funds in the hands of the former incumbent of the office, they must be delivered over to his successor, unless they are the proceeds of the effects of an American who has died intestate more than a year, and which, according to the second section of the act of the 14th of

April, 1792, ought to be remitted to the Treasury of the United States, in which case the Consul who received the same shall make the remittance:

ART. 4. Having entered on the duties of his office, the Consul must immediately give notice thereof to the Department of State, to the minister of the United States in the country to which such Consul is appointed, and to the Consuls of the United States residing in the same country, and in the neighboring ports of other countries. And no Consul is to absent himself from the country of his consular residence, without leave first obtained from the Department of State, or from the diplomatic agent of the United States in that country; unless in cases of emergency, which must be made to appear to the satisfaction of the department.

123. [CHAP. III. *Of the Records and Papers of the Consular Offices.*]

ART. 5. The following record books are to be kept in each consulate:

1. A letter book, into which are to be copied all official notes and letters, (other than those addressed to the Department of State) according to their dates, which are written by the Consul or by his order.

2. A book of correspondence with the Department of State, in which are to be copied, according to their dates, all the letters written by the Consul to the department, with the returns and other documents accompanying the same.

3. A record book for the entry of protests, and all other official consular acts, in which all such acts, of every description, shall be fairly written.

ART. 6 When a paper of any description shall be entered or recorded in either of the said books, the same shall be indexed by a reference both to the name of the party and the subject of the paper.

ART. 7. The answers received to official letters, and all other papers transmitted to the consulate intended to be permanently kept in a proper place, labelled according to their subject matter, until a sufficient number shall be accumulated to form a volume, when they shall be bound up, and indexed in the same manner as is directed with respect to the other records.

ART. 8. All letters addressed to this department must be written on foolscap paper in a fair hand, leaving an inch margin all round the page, and the Consuls will recommend to their correspondents to observe the same form. These letters are to be folded in the manner of the ink lines which are herewith sent to regulate the distance between the written lines of the communication; and the writer's name, consulate or agency, and date, must be regularly endorsed, after which they are to be enclosed in an envelope, and properly directed. The Consuls are further requested not to put wafers or sealing wax upon the communications and letters themselves, but only on the envelopes which enclose them.

ART. 9. All the abovementioned books must be regularly paged; but where blanks occur, (as in the book of original letters from the covers and

unwritten pages,) a cross must be made over the blank page, and it is not to be numbered.

ART. 10. The consular books are not to be mixed with those of the Consul's private affairs; and, his consular business should, if possible, be transacted in a separate apartment from that in which his ordinary commercial or other affairs are carried on; and it must be designated by the arms of the United States exhibited at the entrance, and the words "Consulate of the United States," in English, and in the language of the country where the Consul resides.

ART. 11. A seal must be provided for every consulate, the impression of which shall be the American eagle in the centre, with the name of the consulate around it. This seal is to be kept in some secure place, and used to authenticate all documents given by the Consul.

ART. 12. With these "Instructions," the Consuls will receive printed forms, which are to be employed in future in making the customary commercial returns. These returns are to be made regularly, half yearly, even if it should be necessary to transmit them in blank. The Consuls are required, also, to give the respective sums at the foot of the columns of figures, and finally, after folding the returns in the shape of which they have a specimen in the accompanying blanks, to endorse them with the name of the Consul or agent, the consulate or agency, and the date; with a brief recapitulation, specifying the number of vessels, the amount of tonnage, the number of seamen, and where possible, the estimated value of cargoes.

ART. 13. Also, with these "Instructions," the Consuls will receive another printed form, being a consular statement of fees, designed to accompany the printed forms, of returns described in the preceding article. In the specification of the items, the most scrupulous accuracy of detail is expected. It is earnestly hoped that the Consuls and agents will co-operate with the department in its endeavor to organize a complete consular establishment, for which purpose they are requested to note such parts of the forms mentioned in this and the next preceding article, as they may deem susceptible of improvement, and to make such suggestions as may in any way contribute to the object in view. This form is to be folded up, like that of which it is an accompaniment, and endorsed with the name of the Consul or agent, the consulate or agency, the date, and the sum total in dollars and cents.

When the blanks described in the foregoing articles fail, the Consuls are instructed to make them out in the same form; and for that purpose, they should always retain one specimen of each, which they are to regard in future as an established form.

ART. 14. Whenever accounts are to be transmitted, they must be enclosed in a separate communication, the subject of which must be confined

exclusively to such accounts. All duplicates must be written on separate sheets or parts of sheets and marked as duplicates.

ART. 15. The Consuls are requested in future to endorse, numerically, all their communications and returns thus: No. 1, 2, &c. &c.; so that at any time a deficiency in the series may be readily ascertained and supplied.— Short marginal notes, too, indicating the subject matter of their communications, are particularly enjoined.

124. [CHAP. 4. *Of the Duties required to be performed by Consuls and Vice Consuls of the United States.* SEC. 1. *Of the nature of Consular Duties.*] ART. 16. A consul, (excepting those to the Barbary powers) is not invested with any diplomatic powers, and therefore is not entitled to communicate directly with the Government of the country in which he resides; except under the special circumstances hereinafter mentioned; whenever application is to be made to the Government, it must be done through the Minister of the United States, if there be one; if not, and the case should require it, the Consul may make the application to the proper department, but in respectful terms, stating the exigency of the case, and that an application to the subordinate officers could not be made, or had proved ineffectual.

ART. 17. The duties of a Consul or Vice Consul are such as are prescribed by positive law, or such as arise from the nature of the office under the general commercial laws of nations.

The first statute prescribing particular duties to Consuls is the act of 14th May, 1792. The first section of this act relates solely to the consular convention with France, which, being no longer in force, this section is obsolete. A copy of so much of this act as is in force, is annexed to these instructions.

125. SEC. II. [*Of the Duties of Consuls in Relation to Intestate's Estates.*] ART. 18. By the first clause of the second section, Consuls and Vice-Consuls are empowered to receive protests or declarations, which captains, masters, crews, passengers and merchants, *citizens of the United States*, may make in the place for which such Consul is appointed, and also such as foreigners may make before them relative to the personal interest of any citizens of the United States. The originals of these acts are to be kept in the book of records of the consulate, and copies, duly authenticated under the consular seal, are to be given to such persons as may demand the same.

By the second clause of the second section, where a citizen of the United States shall die within the consular district, the Consul or Vice-Consul shall take possession of his effects, shall sell at public auction such part of them as may be of a perishable nature, and such further part as may be necessary for the payment of the debts of the deceased.

But in order to execute this power, the following are pre-requisites:

1. That the laws of the country permit such administration, or that it be stipulated by treaty.

2. That the person has died without any legal representative, any partner in trade, or trustee, to take care of his effects.

ART. 19. In the execution of this duty the following requisites are prescribed by the act:

1. An inventory must be taken of all the effects of the deceased, with the assistance of two merchants of the United States, or, for want of them, of any others.

In performing this branch of the consular duty, great attention is required; the word "effects" are under the act, comprehends property of every description, including debts due. Merchants of great respectability are to be selected as the assistants of the Consul. Although appraisement is not mentioned in the act, the Consuls are instructed to have the apparent value of each article affixed to it. If among the papers of the deceased are found any evidences of debts, although they may not be due in the consular districts, yet they are to be placed in the inventory.

2. The commercial books of the deceased are to be placed in the inventory, and particularly described, mentioning the number of pages each of the said books contains, and the Consuls shall place a certificate, signed by him, at the beginning and the end of each book, in such manner as to prevent any addition being made to them.

The letter books of the deceased are comprehended in the term commercial books.

ART. 20. This inventory must be entered in the consular books, and as doubts may arise whether this is such a document as is comprehended in the provisions of the first clause of this section of the law, the Consul is instructed to make two originals; that is to say, that the inventory be signed by him, and by his two assistants, both in the book of records in which it is entered, and in the authenticated copy.

ART. 21. By the second section of the act aforesaid, all sales of the property of the deceased must be "at auction, after reasonable public notice." In the execution of this duty, the Consul is instructed to give the same previous notice that is directed by the laws of the country for the judicial sale of property in execution, and at some public place; but whether it be required in judicial sales or not, notice must be given in at least one of the gazettes of the place, if any be printed there, both in English and in the language of the country.

ART. 22. No property shall be sold as being of a perishable nature, until it has been viewed by three respectable merchants, and by them, under oath, declared to be of that description.

ART. 23. In one year after the death of the intestate, the Consul is directed, by the said 2d. section of the act aforesaid, "to transmit the residue of the estate unsold, and the balance (in money after paying the debts and charges) to the Treasury of the United States, to be holden in trust for the legal claimants. But if at any time before such transmission, the legal representative of the deceased appear and demand the effects in the hands of the Consul, he shall deliver them up, being paid his fees, and shall cease his proceedings."

ART. 24. In the execution of the duty prescribed by the last preceding article, the Consul is hereby instructed—

1. To keep a regular account of all monies received, as well for effects sold as for credits collected, and all sums expended; taking duplicate receipts expressing on what account the sums were paid, numbering them regularly; one of each of the said duplicates to be kept by the consul, the other to be delivered to the representative of the deceased, or transmitted to the treasury, if no representative appear.

2. To enter on his consular books a regular account between himself and the estate of the deceased, in which he shall enter to his debit all the moneys and effects that came to his hands, and to his credit all the payments he may make, and, finally, the balance that he may deliver over or remit, so as to close the account. A copy of this account shall be delivered to the representative of the deceased, or transmitted to the treasury, as the case may be.

3. As soon as any estate shall be finally settled, the Consul shall give notice to the department; designating the balance money, and the list of effects, which has been transmitted to the treasury, or delivered to the representative of the deceased, as the case may be.

4. If there should be several parties each claiming to be the representative of the deceased, and demanding the effects, the Consul must direct the parties to determine their rights in the tribunals of the country.

126. SECTION 3. [*Of the duties of Consuls in relation to Wrecks.*]

ART. 25. By the third section of the act aforesaid, the "Consuls and Vice Consuls, in cases where vessels of the United States shall be stranded on the coast of their consulates respectively, shall, as far as the laws of the country permit, take proper measures as well for saving such vessels, their cargoes and appurtenances, as for storing and securing the effects and merchandise saved, and for taking an inventory and inventories thereof; and the merchandise and effects saved, with the inventory and inventories, shall, after deducting therefrom the expense, be delivered to the owner or owners. But no Consul or Vice Consul shall take possession of any such goods, wares merchandise or property, when the master, owner or consignee thereof, is present or capable of taking possession of the same."

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ART. 26. In the execution of the duties prescribed by this part of the act, the Consul is instructed:

1. That all vessels, parts of vessels, and any portion of their cargo belonging to citizens of the United States, saved and brought into the consular jurisdiction, after being wrecked, or in consequence of any disaster at sea, are to be proceeded with in the same manner as if the vessel had stranded within the consular jurisdiction; and if salvage shall be claimed and allowed by a competent tribunal, the remainder of the effects, or the balance of their proceeds, if sold, shall be disposed of in the same manner as is directed in the last preceding section with respect to intestate's estate; provided, in the case of salvage, that the court deciding the same will permit the Consul to receive the effects and balance after paying the salvage.

2. In some countries (as in Sweden) chartered companies have the privilege of taking possession of all property wrecked; in others it may be vested in particular magistrates or officers. In all these cases the Consul is not to interfere with the legal function of the proper officer; but he may demand, as the representative of the absent master or owner, or as his official adviser if he be present, to assist at the taking of the inventory, the sale, and all other proceedings in relation to the property. It is his duty to protect the interest of the owner, and, if his reasonable requests are not complied with, to take the necessary evidence, and transmit it to the Department of State.

3. When any accident of this kind happens within his jurisdiction, the Consul is to give immediate notice to the Department of State, designating the vessel and the owners or master.

4. When there is no impediment from the laws of the country, all proceedings in relation to property wrecked are to be the same with those prescribed for the property of intestates.

127. SECTION 4. [*Of the Duties of Consuls in relation to the masters of American vessels.*] ART. 27. By an act of the Congress of the United States, passed the 28th February, 1803, a copy whereof is annexed to these instructions, it is, in substance, directed, that every master of an American vessel shall, on his arrival at a foreign port, deposit his register, sea letter and Mediterranean passport, with the Consul, Vice Consul, commercial Agent, or Vice Commercial Agent, under a penalty of five hundred dollars, (\$500) which the Consul, Vice Consul, &c. &c. may recover in his own name, for the use of the United States, and that whenever a clearance from the proper officer of the port shall be produced to the Consul, he shall deliver up all the ship's papers, provided the master shall have complied with the provisions of the act of 28th February, 1803, and the act to which it is a supplement, (that is to say) the act of 14th April, 1792.

ART. 28. By another section of the same act, it is directed, that whenever a vessel belonging to an American citizen shall be sold in a foreign port, and her company discharged, or whenever a mariner, a citizen of the United States, shall, with his own consent, be discharged in a foreign country, it is the duty of the master or commander to produce to the Consul, Vice Consul, Commercial Agent, or Vice Commercial Agent, the list of the ship's company, certified according to the first section of the act of 28th February, 1803, and to pay to such Consul, &c. &c. for every mariner being designated on such list as a citizen of the United States, three months' pay, over and above the wages which may be due to such mariner; two thirds to be paid by the Consul to the mariner discharged, upon his engagement on board of any vessel to return to the United States, and the remaining third to be retained for creating a fund for the payment of the passage of mariners, citizens of the United States, who may be desirous of returning to the United States, for the maintenance of American seamen, who may be destitute in such port; and the sums retained for such fund, shall be accounted for to the treasury every six months by the person receiving the same.

ART. 29. The under officers (below that of Captain) are included in the provisions of this section; but the two months' wages are not to be paid in any case, unless the person so discharged has engaged on board of some vessel to return to the United States. If no occasion offers of a direct return, an engagement on board of a vessel ultimately to return, will be sufficient, or, if no such vessel offers, the seaman will be entitled to his two months' wages on his shipping for an intermediate convenient port.

ART. 30. Under the first of these sections, it will be the duty of the Consuls immediately on the arrival of an American vessel in his consulate, should the master neglect to deliver his ship's papers, as is directed by the law, to apprise him of the necessity of so doing, by showing him the law that requires it, and of the penalty he will incur by refusal or neglect.— When received, the papers are to be kept together in a place as safe as possible to guard against fire and other accidents; and the Consul, on receiving such papers, shall make an entry in his consular record, specifying the time of delivery, the name of the vessel, the master, and what is the description of the papers deposited, as register, sea letter, &c. &c.; and when the master shall produce the clearance of his vessel, shall have complied with the directions of the act above recited, the Consul, shall, without delay, deliver up the papers, and shall make an entry in his consular record of the time of such delivery.

ART. 31. The provisions of the acts with which the master is obliged to comply before receiving these papers, are—

1. If any of the seamen are discharged, he must have paid three months' wages of such of them as, by the shipping articles or description list of the

seamen, shall appear to be American citizens. If they appear to be such by either of these papers, no other evidence is required or permitted.

2. If a vessel be bound for a port in the United States, and there are destitute American seamen in the port, he must agree to take such seamen on board, as he shall be requested to do by the Consul, not exceeding two seamen for every 100 tons burden of the vessel—on the terms he may agree on with the Consul, not exceeding ten dollars for each seaman.

3. He must pay the fees for the following services, or such of them as have been rendered by the Consul for the master or his vessel, according to the rules established by law, that is to say:

1. For authenticating, under the consular seal, any act whatever, which may be made, or passed in by the master, or at his request, for the concerns of the vessel, or its owners or freighters, *two dollars*.

2. For any certificate of the discharge of a seaman, *fifty cents*.

These are the only fees for the payment of which, by the acts of Congress, a Consul has a right to detain a ship's papers.

ART. 32. For all other dues, the Consul may require payment at the time the service is performed, or refuse his agency until they are paid for or secured to his satisfaction; but the Consuls are earnestly advised to avoid as much as possible all contentions of this nature with their countrymen, which tend to degrade our national character abroad.

ART. 33. When a vessel is sold under a decree of a court, as having become unseaworthy, in consequence of any accident or stress of weather, and the crew are discharged in consequence of such sale, the three months' wages are not to be required; but if the vessel is found not to be seaworthy in consequence of some decay or defect at the inception of the voyage, the seamen are not to lose their wages on account of the fault of the owners, and the three months' wages are to be exacted.

ART. 34. If any fine or penalty shall be incurred by the master of an American vessel under any of the laws abovementioned, the Consul shall send to this department a certificate of the fact, under the consular seal, with a proper description of the vessel, designating the port to which she belongs, and the place of abode of the master; to the end that suits may be instituted for the recovery of the penalty.

128. SECTION 5. [*Of the duties of Consuls in relation to Seamen of the United States.*] ART. 35. By the fourth section of the said act of 28th February, 1803, it is made the duty of Consuls to provide for the mariners of the United States, who may be found destitute within their districts, sufficient subsistence and passages to the United States, in the most reasonable manner, at the expense of the United States, subject to such instructions as the Secretary of State shall give, and the section also provides for the manner in which such mariners are to be transported to the United States.

Under this section, the Consuls are instructed—

1. That all seamen shipped as American seamen, are entitled to the benefit of its provisions, and they shall not be refused the relief provided for by it, under pretence that they are not really American citizens.

2. That the relief to be provided shall include board, lodging, and medical attendance, and clothing, when necessary; all to be on the most reasonable scale, consistent with the comfort and proper support of the individual.

3. That persons applying for relief be examined touching the manner of their being left destitute; and, if it shall appear from such examination that they have been discharged from any American vessel contrary to the provision of the third section of the act of the 28th February, 1803, or that any other provisions of the said act or other laws of the United States have been violated, in every such case it shall be the duty of the Consul to transmit a copy of the examination of the mariner to this department, with such other information as may enable it to cause prosecution to be instituted for such breach of the laws, designating the place at which the necessary witnesses will probably be found.

4. That, in all cases of such relief afforded, whether the seamen have received it, be returned to the United States or not, an exact account be furnished, in the half yearly returns made by the Consul, of the name of the individual, and of the ship, its master, owner, and the port to which she belonged, together with the sum expended, with vouchers, where, from the nature of the case, they can be procured.

ART. 36 Where piracy, mutiny, or any other offence against the laws of the United States, shall have been committed on board of any vessel of the United States coming into the consular district, it is the duty of the Consul, after taking the depositions necessary to establish the facts, to apply to the local authorities for means of securing the offenders while they remain in port, and to provide the means of sending them, without delay, to the United States for trial; and, in all such cases, where the vessel, on board which the offence was committed, is not bound to the United States, the Consul is directed to procure two of the principal witnesses to be sent home with the person accused; and he is at the same time, to transmit certified copies of all the depositions he has taken in relation to the offence; an exact detail of all its circumstances; and such information as may be necessary to secure the conviction of the offenders.

ART. 37. Great care must be taken in all cases of accusations against mariners, by their officers, not to confound a simple and casual disobedience of orders with the crime of mutiny, which has, in some cases, been made, in order to justify a discharge of seamen in a foreign port, contrary to the directions of the act: In this, as in all other cases, the Consuls are particularly instructed, while on the one hand they support the masters of vessels in the

exercise of their proper authority, on the other to discourage and prevent, all oppression of seamen by their officers. One essential object of the consular appointment is the protection of this class of our fellow-citizens, whose habits of life require a kind of guardianship of their persons and interests in foreign countries; but, at the same time, a strict vigilance over their conduct.

127. SECTION 6. [*Of the Duties of Consuls in granting Certificates and Passports.*] ART. 38. Consuls are authorized to great passports to American citizens, which must be authenticated by their signature, and the consular seal, and must be in the form hereunto annexed. Great care and circumspection are required in the exercise of this duty, that passports be given to none but American citizens; and to give such passport to an alien, knowing him to be such, is an offence punishable by a fine of one hundred dollars, (\$100,) to which the President will always add deprivation of office.

The same observations apply to certificates, that property belonging to aliens is the property of citizens, knowing the fact to be otherwise; by which offence a much higher penalty is incurred, the punishment being a fine not exceeding ten thousand dollars, (\$10,000) and imprisonment not exceeding three years. Consuls therefore, in all such cases, will require such evidence as will show clearly that they had good reason to believe the truth of the facts they certify.

ART. 39. By the revenue laws of the United States, Consuls are authorised to give certificates of the landing of merchandize, to obtain the benefit of drawback. As great frauds upon the revenue have sometimes been committed by obtaining certificates without a due examination of the articles, Consuls are instructed to give no such certificates without personal inspection or full proof.

ART. 40. Authority is also given by the same laws to certify invoices of goods shipped to the United States; but the shipper is entitled to include in one invoice all the goods he may ship by the same vessel. On these, and on all other subjects relating to duties regarding the revenues, particular instructions will be given by the Treasury, which will be equally obligatory as if they had proceeded from this department.

128. SECTION 7. [*Of the duties of Consuls with respect to the appointment of Consular Agents.*] ART. 41. When there are several seaports in a consular district, to which American vessels resort, it is the duty of the Consul to appoint some fit person to be consular agent in such port, who shall correspond with, and make his returns to him, (the Consul,) who shall transmit copies of them with his own quarterly returns.

ART. 42. Great care must be taken in the selection of Consular agents. American citizens are to be preferred when other qualifications are equal; and when fit persons can be found who are not engaged in commerce, they are to be selected. The Consul is to be responsible for the official act of the

consular agent appointed by him, and he must immediately give notice to the minister of the United States, near the government of the country where he resides, to the local authority of the place, and to this department, of such appointment.

129. [CHAP. 5. *Rules for the General Conduct of Consuls, not reducible to either of the preceding heads.*] ART. 43. Every law, edict, or regulation, in any way affecting the commerce of the United States, or of any other country than that in which the consular district lies, must immediately be transmitted to this department; and, if it be a local regulation operating only on a particular port, the Consul must also give immediate notice thereof to the Minister, if there be any in the country to which the district belongs.

ART. 44. The Consuls are expected, once in three months at least, to write to the department, if it be for no other purpose than that of apprising the department of their being at their respective posts. They are not required to write oftener, unless in emergent cases, or where interest or business points out the propriety of more frequent communication. In their correspondence, they will note all events that bear upon the commerce of the country with the United States, and of our navigation, the establishment of new branches of industry in the extent of their consulate, and the increase and decline of those before established; they will make such suggestions as in their opinion, may lead to the increase of our commerce or navigation, and point out those which have a contrary effect, with the means that appear proper for avoiding them. Samples of manufactures, and specimens of produce which appear to be valuable articles either of export or import, if not generally known, should be sent, if not too bulky, with the consular letters; and if too bulky, may be addressed to the collector of some of our principal ports; also seeds of plants and grain which might be cultivated to advantage in the United States. In general, the duties of the consular office require an attention to whatever can promote the commerce and navigation of our country, as well as to the particular affairs of the individuals of our nation who may require the exercise of the consular function.

ART. 45. The Consuls are particularly cautioned not to enter into any contentions that can be avoided, either with their countrymen, or the authorities of the country in which they reside; referring questions of that nature to the Minister or to this department, and using every endeavor to settle, in an amicable manner, all disputes in which their countrymen may be concerned; countenancing and protecting them with the authorities of the country in all cases in which they may be injured or oppressed; but firmly refusing them support when they have been wilfully guilty of any infraction of the laws, particularly in any attempt to defraud the revenue; and giving aid to the proper officers in preventing any such practices, which, though they may prove a pecuniary benefit to the individuals concerned, leave a stain on the national character.

ART. 46. It is at all times the duty of consuls exercising the functions, and enjoying the privileges attached to their offices, scrupulously to abstain from all participation whatever, direct or indirect, in the political concerns of the countries to which they are appointed, and by whose governments they are severally acknowledged and recognized in their public characters; but it is, at the same time, no less their duty to report, freely and seasonably, to their own governments all important *facts* which may come to their knowledge, through authentic channels, touching the political condition of these countries, especially if their communications can be made subservient to, or may effect, the interest and well being of their own.

From the disturbed and unsettled condition of the republics of the South American, and United Mexican States, and the excitements there prevailing, it is especially desirable that the Consuls of the United States, in those states, should forbear intermeddling with their political or local affairs, in the smallest degree whatever, and that they should be equally on their guard against the enlistment of their feelings or sympathies upon the side of any of the political or sectional parties which divide them at the present time. In their letters, even to this department, upon such subjects, they will confine themselves to the communication of important or interesting public events as they occur, in as concise and succinct a form as may be convenient, avoiding all unnecessary reflections or criticism upon the characters or conduct of individuals; and they will, on no occasions, give publicity through the press, to opinions or speculations injurious to the public institutions of those countries, or the persons concerned in the administration of them.

130. [CHAP. VI. *Of the Consular Uniform.*] ART. 47. The consular uniform (as prescribed by the circular from this Department, dated August 8th, 1815, hereto annexed) must be worn on all visits of ceremony to the authorities of the place, and on all other proper occasions.

131. [CHAP. VII. *Of the intercourse between the Consuls of the United States and the Officers of the Navy.*] ART. 48. The rules laid down in the circular from this Department of the 25th of June, 1830, (hereunto annexed) are to be observed whenever a vessel of war of the United States visits the consular residence.

132. [CHAP. VIII. *Of the Fees to be received by the Consuls of the United States.*] The following are the fees allowed by law to be taken by the Consuls of the United States for services they may have performed:

1. For authenticating, under the consular seal, every protest, declaration, deposition or other act which captains, masters, marines, seamen, passengers, merchants, or others as are citizens of the United States, may respectively choose to make, the sum of two dollars—§2.

It would appear by the limitation to citizens of the United States, that the fee for this service was not designed to be prescribed where the service

was rendered to persons not citizens. In all such cases, therefore, where the service is rendered to an alien, the Consul is at liberty to charge according to the fees allowed to notaries in the country where he resides.

2. For taking into possession, inventorying, selling, and finally settling, and paying, or transmitting, according to law, the balance due the personal estate of any citizen who shall die within the limits of his consulate, five per centum, on the gross amount of such estate.

If part of such estate shall be delivered over before a final settlement, two and a half per cent. is allowed on the part so delivered as is not in money, and five per cent. on the gross amount of the residue.

3. For granting a certificate of the delivery of merchandise under the revenue laws, one dollar—\$1; and for administering the oath, twenty-five cents.

4. For every verification and certificate of an invoice, two dollars—\$2. But every shipper shall have a right to include all articles shipped by him in the same invoice.

5. For every certificate of discharge of any seaman in a foreign port, fifty cents.

6. And for receiving and paying the amount of wages due on such discharge, $2\frac{1}{2}$ per cent.

7. On the deposit of a ship's papers, the Consul shall give a certificate thereof, under seal; and, on the delivery of them, a like certificate, for which he is entitled, as above, to two dollars—\$2, each; making the whole of the fees for the deposit and delivery of the papers, four dollars—\$4, which is not to be exceeded.

8. No other or greater fees are to be charged to American citizens for the services above enumerated; but if American citizens or others require other services, they may be charged at the rate allowed to notaries in the same place for the same services.

13E. [CHAP. IX. *Of the expenses to be allowed to Consuls.*] ART. 49. When a Consul is put to any extraordinary expense, such as postage for public despatches, expenses in forwarding them when directed so to do, he shall be allowed the same in his account with the department, but no provision is made for his house or office rent, stationery, or other ordinary expenses of his office.

ART. 50. His accounts for the support of American seamen must be transmitted quarterly.

ART. 51. The Consul going to a place where there is no seal, flag, or arms of the United States provided for the Consulate, will be allowed the reasonable cost of the same.

EDWARD LIVINGSTON.

134. *An Act concerning Consuls and Vice Consuls.* Passed on the 14th of April, 1792. And for the direction of the Consuls and Vice Consuls of the United States in certain cases:— [The Second, Third, Fourth, Fifth, Sixth, and Ninth Sections, only, are appended to these official Instructions, for which, see pages 85, 86, and 87, of this volume.]

135. *An Act of Congress of February 28, 1803, supplementary to the "Act concerning Consuls and Vice Consuls," and for the further protection of American Seamen.* [See this law at large in pages 88, 89, 90, and 91, in this volume. The last section of this law (the ninth) is omitted in the official Instructions.]

[PASSPORT.]

136. *Consulate of the United States of America, at ———. To all to whom these presents shall come, Greeting:*

DESCRIPTION.	No.
Age, years.	
Stature, feet, inches, Eng.	I, the undersigned, Consul of the United States of America, hereby request all whom it may concern, to permit safely and freely to
Forehead,	pass,
Eyes,	the bearer hereof, a citizen of the United
Nose,	States; and, in case of need, to give him all lawful aid and pro-
Mouth,	tection.
Chin,	
Hair,	Given under my hand, and the seal of my consulate,
Complexion,	[L. s.] at _____, of the Independence of the United States
Face,	the
Signature of the bearer.	

137. [CIRCULAR.]

DEPARTMENT OF STATE, *August 8, 1815.* The Consular uniform, prescribed in the standing Consular instructions, is abolished, and the following substituted, viz: Single breast coat of blue cloth, with standing cape or collar, and ten navy buttons in front; one button on each side of the cape; four on each cuff; four under each pocket flap; and one on each hip and in the folds; two on each side in the centre; and one on each side of the same, at the lower extremity of the skirts.

The front, (from the cape down to the lower extremity of the skirts,) cuffs, cape, and pocket flaps, to be embroidered in gold, representing a vine composed of olive leaves; and the button holes to be worked with gold thread; the button holes corresponding with the width of the embroidery, which is not to exceed two inches in any part.

Vest and small clothes of white, and navy buttons; the former to have ten in front, and four under each pocket flap. With this dress, a cocked hat, small sword, and shoes and buckles are to be worn. The hat to be furnished with gold loop, gold tassels, and black cockade, with gold eagle in the centre; added to which, it is to be understood that the mountings of the sword, and shoe and knee buckles, are to be gold, otherwise gilt.

133. [CIRCULAR.]

DEPARTMENT OF STATE, *Washington, June 25, 1830.* SIR, I have the honor to subjoin the copy of a circular letter from the Secretary to the Captains of the Navy, prescribing the rules of etiquette to be observed by them in relation to their intercourse with the Consuls of the United States, resident at foreign ports, where they may arrive, and to state that these rules entirely coincide with the views of this department upon the subject.

According to the first, the Consul of the United States, residing at a foreign port, which is visited by a ship of war of the United States, is to receive the first visit from such ship, in the person of an officer belonging to it, deputed and sent for that purpose by the commander; and this officer is then to tender to the Consul a passage to the said ship. In such cases you will accordingly avail yourself of the proposed accommodation, whenever occasion may require, as well for the purposes of making the first visit to the commanding officer of the ship in question, (this being a mark of courtesy due to the commission and rank he holds in the Navy of the United States,) as for that of offering to him any services which your official situation may enable you to render for the convenience of his ship, or those belonging to it; and you will accordingly receive and execute any such commission as may be entrusted to you for these ends by him, as far as this may be compatible with your sense of public duty.

According to the second and last, "it shall be the duty of the commander of any of our ships of war, (commanders of squadrons excepted,) to visit the Consul General, and offer him a passage to the ship of war." The Consuls General of the United States, where there are such officers, will, accordingly, reciprocate these attentions on the part of the commanders of the ships of war, or will pay the first honors to the commanding officers of squadrons, as the case may be; and they will, of course, employ their good offices, as far as it may be useful or proper on their part, to promote the good and convenience of the service in which such vessels are engaged.

I am, sir, respectfully, your obedient servant.

139.

NAVY DEPARTMENT, *June 23, 1830.* SIR, I have the honor to present herewith, a copy of the regulations of this Department, prepared by the direction of the President, for the government of the Commanders of our ships of war, in their intercourse with the Consuls of the United States residing in foreign ports.

Should it meet your approbation, it will be communicated to the Commanders of the national vessels of war; and I will be obliged to you, when convenient, for a copy of the corresponding regulations of the State Department to our Consuls abroad.

I am, very respectfully, Sir, your obedient servant, JNO. BRANCH.
The Hon. MARTIN VAN BUREN, *Secretary of State.*

140. [CIRCULAR.]

NAVY DEPARTMENT, *June 22, 1830.* To promote harmony and concert of action between the Commanders of our ships of war, and Consuls of the United States, residing in foreign ports, the following regulations have been established by direction of the President of the United States, and are promulgated for the government of the officers concerned:

1. Upon entering a foreign port where a Consul of the United States resides, the Commander of our ships of war shall send a boat on shore with an officer on board, who shall visit the Consul, and tender to him a passage to the ship of war.
2. Where a Consul General resides, it shall be the duty of the Commander of any of our ships of war, (commanders of squadrons excepted,) to visit the Consul General, and offer him a passage to the ship of war.
3. The commander of squadrons will send a boat on shore, as prescribed in the first regulation, tendering to the Consul or Consul General a passage on board to the flag ship of war.

JNO. BRANCH.

[COMMISSION.]

141. *The President of the United States of America, To all who shall see these Presents, Greeting:* Know ye, That reposing special trust and confidence in the abilities and integrity of _____, of _____, I have nominated, and by and with the advice and consent of the Senate, do appoint him Consul of the United States of America, for _____, and do authorize and empower him to have and to hold the said office, and to exercise and enjoy all the rights, pre-eminences, privileges, and authorities, to the same of right appertaining; during the pleasure of the President of the United States, for the time being, he demanding and receiving no fees or perquisites of office whatever, which shall not be expressly established by some law of the United States. And I do hereby enjoin all captains, masters, and commanders of ships, and other vessels, armed or unarmed, sailing under the flag of the said States, as well as all other of their citizens, to acknowledge and consider him, the said _____ accordingly. And I do hereby pray and request, _____ governors and officers, to permit the said _____ fully and peaceably to enjoy and exercise the said office, without giving, or suffering to be given, unto him, any molestation or trouble; but, on the contrary, to afford him all proper countenance and assistance, I offering to do the same for all those who shall, in like manner, be recommended to me by _____

In testimony whereof, I have caused these letters to be made Patent, and the Seal of the United States to be hereunto affixed. Given under my hand, at the City of Washington, the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, and of the Independence of the United States of America the _____

By the President:

Secretary of State.

[BOND.]

142. *Know all Men by these Presents,* That we, _____, are held and firmly bound to the United States of America, in the sum of two thousand dollars, money of the said United States, to the payment whereof, we bind ourselves jointly, and severally, our joint and several heirs, executors, and administrators. Witness our hands and seals, this _____ day of _____ 183 _____.

The condition of the above obligation is such, That if the above bounden _____ appointed _____ of the United States, in certain foreign parts, shall truly and faithfully discharge the duties of his said office, according to law, and also shall truly account for all moneys, goods and effects, which may come into his possession by virtue of the laws of the United States, or of his said office, then the above obligation to be void: otherwise, to remain in full force.

Signed, sealed, and delivered, in the Presence of

145. Consuls are commercial agents, appointed to reside in the sea-ports of foreign countries, with a commission to watch over the commercial rights and privileges of the nation deputing them. The establishment of consuls is one of the most useful of modern commercial institutions. They were first appointed about the 12th century, in the opulent states of Italy, such as Pisa, Lucca, Genoa, and Venice, and their origin has been ascribed to the necessity for extraordinary assistance in those branches of commerce formerly carried on with barbarous and uncivilized nations. The utility of such a mercantile officer has been perceived and felt by all trading nations, and the Mediterranean trade, in particular, stands highly in need of such accredited agents. Consuls have been multiplied and extended to every part of the world, where navigation and commerce can successfully penetrate, and their duties and privileges are now generally limited and defined in treaties of commerce, or by the statute regulations of the country which they represent. In some places, they have been invested with judicial powers over the disputes between their own merchants in foreign ports; but in the commercial treaties made by Great Britain, there is rarely any stipulation for clothing them with judicial authority, except in treaties with the Barbary powers; and in England it has been held, that a consul is not strictly a judicial officer, and they have there no judicial power. [Mansfield, Ch. J., in *Waldron v Coombe*, 3 *Taunton*, 162. 1. *Chitty* 50,51.] It has been urged by some writers, as a matter highly expedient, to establish rules requiring merchants abroad to submit their disputes to the judicial authority of their own consuls, particularly with reference to shipping concerns. But no government can invest its consuls with judicial power over their own subjects, in a foreign country, without the consent of the government of the foreign country, founded on treaty; and there is no instance, in any nation of Europe of the admission of criminal jurisdiction in foreign consuls. The laws of the United States, on the subject of consuls and vice-consuls, specially authorized them to receive the protests of masters and others, relating to American commerce, and they declare that their consular certificates, under seal, shall receive faith and credit in the courts of the United States. It is likewise made their duty, where the laws of the country permit, to administer on the personal estates of American citizens, dying within their consulates, and leaving no legal representative, and to take charge of and secure the effects of stranded American vessels, in the absence of the master, owner, or consignee, and they are bound to provide for destitute seamen within their consulates, and to send them at the public expense, to the United States. These particular powers and duties are similar to those prescribed to British consuls and to consuls under the consular convention between the U. States and France, in 1788; and they are in accordance with the usages of nations, and are not to be construed to the exclusion of others, resulting from the nature of the

consular appointment. [1 *Beawes' L. M. tit. Consuls*, p. 292, 293.] The former consular convention between France and this country, allowed consuls to exercise police over all vessels of their respective nations, "within the interior of the vessels," and to exercise a species of civil jurisdiction, by determining disputes concerning wages, and between the masters and crews of vessels belonging to their own country. The jurisdiction claimed under the consular convention with France, was merely voluntary, and altogether exclusive of any coercive authority; [Mr. Pickering to Mr. Pinckney, January 16th, 1797.] and we have no treaty at present which concedes even such consular functions. The doctrine of our courts is, [Case of the *Bello Corrunes*, 6 *Wheaton*, 168.] that a foreign consul, duly recognised by our government, may assert and defend, as a competent party, the rights of property of the individuals of his nation, in the courts of the United States, and may institute suits for that purpose, without any special authority from the party for whose benefit he acts. But the court, in that case, said, that they could not go so far as to recognise a right in a vice-consul to receive actual restitution of the property, or its proceeds, without showing some specific power, for the purpose, from the party in interest.

No nation is bound to receive a foreign consul, unless it has agreed to do so by treaty, and the refusal is no violation of the peace and amity between the nations. Consuls are to be approved and admitted in the usual form, and if any consul be guilty of illegal or improper conduct, he is liable to have his *exequatur*, or written recognition of his character, revoked, and to be punished according to the laws of the country in which he is consul; or he may be sent back to his own country, at the discretion of the government which he has offended. The French consuls are forbidden to be concerned in commerce, and, by the act of Congress of February 28, 1803, American consuls residing on the Barbary coast, are forbidden also; but British and American consuls are generally at liberty to be concerned in trade; and in such cases the character of consul does not give any protection to that of merchant, when these characters are united in the same person. [1 *Beawes' L. M. vol. 1. tit. Consuls*, p. 291. 1 *Chitty*, 57, 58. 3 *Rob. Adm. Rep.* 27. The *Indian Chief*.] Though the functions of consul would seem to require, that he should not be a subject of the state in which he resides, yet the practice of the maritime powers is quite lax on this point, and it is usual, and thought most convenient, to appoint subjects of the foreign country to be consuls at its ports.

A consul is not such a public minister as to be entitled to the privileges appertaining to that character, nor is he under the special protection of the law of nations. He is entitled to privileges to a certain extent, such as for safe conduct, but he is entitled to the *jus gentium*. Vattel thinks, that his functions require that he should be independent of the ordinary criminal

jurisdiction of the country, and that he ought not to be molested, unless he violates the law of nations by some enormous crime; and that if guilty of any crime, he ought to be sent home to be punished. But no such immunities have been conferred on consuls by the modern practice of nations; and it may be considered as settled law, that consuls do not enjoy the protection of the law of nations any more than other persons who enter the country under a safe conduct. In civil and criminal cases they are equally subject to the laws of the country in which they reside. The same doctrine declared by the public jurists, has been frequently laid down in the English and American courts of justice. It seems, however, from some decisions in France mentioned by Mr Warden,* that foreign consuls cannot be prosecuted before a French tribunal for acts done by them in France by order of their government, and with the authorisation of the French government, and that in general, a consul cannot be prosecuted without the previous consent of his government. Consular privileges are much less extensive in Christian than in Mahometan countries. In the latter they cannot be imprisoned for any cause whatever, except by demanding justice against them of the Porte, and they partake very considerably of the character of resident ministers. They are diplomatic agents under the name of consuls, and enjoy the rights and privileges which the Ottoman Porte recognises in relation to the foreign ministers resident at Constantinople. By treaty an entire immunity is usually given to the persons, domestics, and effects of the resident consuls, and no consuls reside with the Barbary states but under the protection of treaties.

Considering the importance of the consular functions, and the activity which is required of them in all great maritime ports, and the approach which consuls make to the efficacy and dignity of diplomatic characters, it was a wise provision in the constitution of the United States, which gave to the Supreme Court original jurisdiction in all cases affecting consuls, as well as ambassadors and other public ministers, and the federal jurisdiction is understood to be exclusive of the state courts. *Kent's Commentaries.*

146. Consuls have not, in strictness, a diplomatic character. They are deemed, as mere commercial agents, and therefore partake of the ordinary character of such agents; and are subject to the municipal laws of the countries where they reside. Yet, as they are the public agents of the nation, to which they belong, and are often entrusted with the performance of very delicate functions of state, and as they might be greatly embarrassed by being subject to the ordinary jurisdiction of inferior tribunals, state, and national, it was thought highly expedient to extend the original jurisdiction of the Supreme Court to them also. The propriety of vesting jurisdiction, in such cases, in some of the national courts seems hardly to have been questioned, by the most zealous opponents of the constitution. And in cases

*See page 456 of this volume.

against ambassadors, and other foreign ministers, and consuls, the jurisdiction has been deemed exclusive. *Story's Commentaries.*

147. Consuls are under the special protection of the law of nations, and may be considered, in a general sense, as diplomatic agents of the state which names them; they cannot, however, as to this prerogative, rank in the class of public ministers, not even of those of the third order, seeing that they are not provided with letters of credit, that they are merely furnished with letters of provision, [Provisional Powers] and that, finally, they cannot enter on the discharge of their functions, until they have obtained exequatur of the sovereign power, in whose states they are to reside. *Martens' Manual.*

148. Those consuls sent to barbarous states, and to the ports of the Levant, are an exception to this rule: those consuls alone are accredited and treated as ministers. The greater part of them, and especially the consuls general, named by the certain powers for the several places, or over several consuls, possess, in some points, even more prerogatives than those sent to the ports of Europe. *ib.*

The case of the Commonwealth against Kosloff. Sup. Court, Penn. Philadelphia, Jan. Sess. 1816. [Sergeant & Rawle's Repts. vol. 5.]

149. The grand inquest for the city and county of Philadelphia, having preferred a bill of indictment for a rape, against Nicholas Kosloff, Consul General of his Imperial Majesty the Emperor of Russia, a motion has been made to quash the indictment for want of jurisdiction in this court. Two causes are assigned for our want of jurisdiction. 1. That the privilege of immunity from criminal prosecutions, is conferred on consuls by the law of nations. 2. That by the constitution and laws of the United States, exclusive jurisdiction in all cases affecting consuls, is vested in the courts of the United States.

150. It has not been contended, that a consul is a public minister,—but it is said, that a consul-general, such as Mr Kosloff, is prohibited from exercising trade and commerce, and entrusted with important concerns from his sovereign, and so nearly resembles a public minister, that he is entitled to some of his prerogatives, and in particular, to exemption from criminal prosecution. In considering this case, we must exclude from our view, the august personage to whom allusion was made in the argument. Concerning his high character, and the intimacy of the relations to be preserved with him, there is but one voice,—one wish. These considerations would have their deserved weight, in the proper place. But before us there is only a naked question of right, in which all nations are equally concerned: for we cannot but see, that that which is granted as the right of one, must be conceded as the right of all. The law of nations is sought for in the usages of nations, in the opinions of approved authors, in treaties, and in the decisions of judges.

151. With regard to the privileges of consuls, there is some difference

of opinion among respectable authors. Wicquefort, Bynkershoek, and Martens, allow to a consul no privilege, against suits civil or criminal; and the reason they assign, is, that consuls in no manner represent the person of their sovereign, but are sent for the purpose of assisting his subjects, particularly in matters of commerce, and sometimes of deciding disputes, which may arise between them, by permission of the government in whose dominions they reside.

152. Opposed to them is Vattel, who, although he does not assert, that a consul is entitled to the privileges of a public minister in general, is yet of opinion, that from the nature of his functions. "He should be independent of the ordinary criminal justice of the place where he resides, so as not to be molested or imprisoned, unless he himself violates the law of nations by some uncommon crime.

153. Crimes against the law of nations, are sometimes understood to be, crimes which all nations agree to punish. Such are murder, and *rape*, among the civilized nations: and if that be the meaning of Vattel, his authority would *not* exempt the consul from the present prosecution. But what is of more weight than the judgment of authors, however respectable, is the opinion and the practice of our own government, and that of the foreign nations with whom we have had intercourse.

154. We have had treaties with France, Spain, Great Britain, Holland, Prussia and Sweden, in all of which the subject of consuls has been introduced, and in not one of which, have consuls been protected from suits civil or criminal. I say nothing of our treaties with the Barbary powers, because there are special reasons why all nations who send consuls to them, take care to provide expressly for their personal security. In the treaty with Great Britain, made in 1794, consuls are expressly declared, to be subject to punishment by the law of the country in which they reside. By the consular convention with France, in 1788, there is to be full and perfect immunity, concerning the chancery and its papers, but the house of the consul is to be no asylum for persons or effects. And in our other treaties, the most that is stipulated in favor of consuls, is, that they shall respectively enjoy the same prerogatives and favors, that are granted to those of the most favoured nations. These treaties afford a strong proof of the usage of nations—for it cannot be supposed, that they should have omitted to secure consuls from criminal prosecutions, if it had been thought desirable, or usual, to afford them that protection. But there is not wanting more direct proof of the opinion of our own government: in the "act for the punishment of certain crimes against the United States," passed April 30, 1790, penalties are inflicted on persons who sue out process from any court, against an ambassador or other public minister—but the act is silent as to consuls. And what is directly to the point, the 9th sect. of the "act to establish the Judicial Courts of the United States," (passed September, 24, 1789,) vests the

District Courts with jurisdiction of offences committed by consuls, in which the punishment does not exceed a fine of 100 dollars, &c. &c. Neither are we left, on this important subject, without the light of judicial decision. Mr Ravara, consul from Genoa, was indicted and convicted for a misdemeanor, in the Circuit Court of the United States. 2 *Dall.* 299. He was defended by able counsel, who contended for his privilege, on the authority of Vattel. But the court decided against him; and it is worthy of remark, that Ch. J. Jay presided, who had been long employed in a diplomatic function of a high grade at the court of Madrid, and was one of the ministers of the United States who negotiated the treaty which established our independence at Paris. No person, certainly, had better opportunities of knowing the usage of nations, or a better capacity for improving these opportunities. From all these considerations, I cannot hesitate in the opinion, that there is nothing in the law of nations which protects the consul general of Russia from this indictment.

155. A more difficult question remains to be considered—Is the jurisdiction of this court taken away, by the constitution and laws of the United States.

156. An agent of a foreign government, accused of a crime committed in the state of Pennsylvania, claims, not an exemption from trial, but the right of being tried by a court of the United States. His public relations are, not with the state of Pennsylvania, but with the government of the United States: and if the emperor of Russia should suppose that he had cause to complain of our treatment of his officer, he must address himself, not to the governor of Pennsylvania, but to the President of the United States. But even where there was a cause of complaint, cases may be easily supposed, in which the president might think it more conducive to the peace of the nation, to send a foreign agent out of the country, to be punished by his own sovereign, than to inflict punishment on him, by our own laws here.

157. If it was intended by the constitution, that no inferior court of the United States should have jurisdiction, it cannot be supposed that a state court was to have it, because there is much stronger reason for denying it to the state courts, than to the inferior courts of the United States. It will be perceived, that this principle shakes the decision in the case of Ravara, who was convicted in the circuit court, though not that part of the decision which respects the privilege of a consul.

158. No embarrassment, could equal that into which this court would be thrown, should it determine, that no court of the United States has jurisdiction, in a case which affects a consul in every thing short of life, when the Constitution declares, that the Supreme Court shall have jurisdiction in all cases affecting him. Upon full consideration, I am of opinion that the indictment should be quashed, because this court has no jurisdiction. Indictment quash.

Case of C. A. Davis, Con. Gen. of the King of Saxony, Pl. in Er. v. I. Packard, &c.

159. The record of the proceedings in this case, brought up with the writ of error to the court for the correction of errors of the state of New York, shewed that the suit was commenced in the Supreme Court of the state of New York, and that the plaintiff in error, who was consul-general of the king of Saxony, did not plead or set up his exemption from such suit, in the Supreme Court: but on the cause being carried up to the court for the correction of errors, this matter was assigned for error in fact; notwithstanding which, the court of errors gave judgment against the plaintiff in error. The court of errors of New York, having decided that the character of consul did not exempt the plaintiff in error from being sued in the in the state court, the judgment of the court of errors was reversed. *Davis v. Packard*, 276. *U. S. Supreme Court, Jan. Term, 1833. Peters, Vol. 7.*

160. As an abstract question, it is difficult to understand on what ground a state court can claim jurisdiction of civil suits against foreign consuls. By the constitution, the judicial power of the United States extends to all cases affecting ambassadors, other public ministers, and consuls; and the judiciary act of 1789, gives to the district courts of the United States, exclusively of the courts of the several states, jurisdiction of all suits against consuls and vice-consuls, except for certain offences enumerated in the act. *ib.*

161. If a consul, being sued in a state court, omits to plead his privilege of exemption from the suit, and afterwards, on removing the judgment of the inferior court to a higher court by writ of error, claims the privilege, such an omission is not a waiver of the privilege. If this was to be viewed merely as a personal privilege, there might be grounds for such a conclusion, but it cannot be so considered; it is the privilege of the country or government which the consul represents. This is the light in which foreign ministers are considered by the law of nations; and our constitution and law seem to put consuls on the same footing in this respect. *ib.*

162. If this privilege or exemption was merely personal, it can hardly be supposed that it would have been thought sufficiently important to require a special provision in the constitution and laws of the United States. Higher considerations of public policy, doubtless, led to the provision. It was deemed fit and proper, that the courts of the government, with which rested the regulation of foreign intercourse, should have cognizance of suits against the representatives of such foreign governments. *ib.*

163. The action in the Supreme Court of New York against the defendant, was on a recognizance of bail, and it was contended that this was not an original proceeding, but the continuance of a suit rightfully brought against one who was answerable to the jurisdiction of the court in which it was instituted, and in which the plaintiff in error became special bail for the defendant; and therefore the act of congress did not apply to the case. Held, that the act of congress being general in its terms, extending to all suits against consuls, is applied to this suit. *ib.*

NOTES. We gather the following matters, on the subject of Consuls, from WARDEN'S "*Consular Establishments*:"

164. The functions of a consul are quite distinct from those of a minister, even in places where the latter resides. The former is charged with the individual commercial concerns of his country; with the prosecution of private claims, with the business of seamen, and cases of vessels seized or captured.

He is often requested to examine and verify affairs conducted by agents, who have not satisfied the views of their constituents. In this respect, he acts like an attorney-general, and is obliged to communicate to the party the result of his inquiry.

It is his duty to be as useful, as time and circumstances may permit, to scientific or literary travellers of his nation; and, at their arrival, to procure them information in the line of their profession; to facilitate their correspondence, and to communicate to them the passing events of their country, in which they express an interest.

The consul, if he be not a merchant, is often consulted in secret, concerning the moral and pecuniary character of his countrymen, whose object is credit, or an interest in a mercantile or manufacturing association. He is also consulted by foreigners, concerning the nature and value of the lands and stocks of his country; the best mode of remitting money, and the means of procuring passages for their respective countries.

In the course of a few years, what a variety of useful information may a consul communicate to his country, if he have an acquaintance with the directors and professors and public establishments? Books, maps, pamphlets, models and drawings of machines, seeds and plants, are gladly offered in exchange for similar articles.

From enlightened agents of this description, less occupied with the gains of commerce than with statistical knowledge, France has drawn, from various countries, treasures of useful information, which she has promptly and wisely employed to increase her manufactures and strength. In the midst of revolution this great object was not forgotten. At the request of the French Committee of public instruction, the Department of Foreign affairs enjoined the consuls to keep up a regular correspondence on subjects of science, manufactures and arts. Through this medium it was proposed to facilitate communication between the French *savans* and the learned of other countries: to disseminate new publications, accelerate the circulation of thought and discovery, and increase the fame and prosperity of France, by uniting the fruits of her genius with those of other philanthropic nations.

French consuls, at the request of the National Institute, and agricultural and other societies, have furnished interesting accounts of the countries in which they resided. The academy of sciences, by addressing a series of questions to *M. de Guignes*, resident consul in China, obtained new and accurate information concerning a country whose productions have been so carefully concealed from the eye of strangers.

It would add much to the growth of civilisation throughout the world, if consuls and agents were permitted to communicate the discoveries of their compatriots, in exchange for those of the country where they reside. In the United States, where nothing is concealed, where manufactures, dock-yards, inventions and improvements of every kind may be examined by strangers from every region, civilisation has made more progress, in a given time, than in any other country.

In Rymer's *Fœdera*, mention is made of a treaty, [1474] ratified by king Edward IV, and the consuls and proconsuls of Lubeck, Hamburg, and Dantzick, in the name of the Hanseatic league. This work contains the substance of a charter, [1478] granted by the said king to the *grandees* (*gretsmenis*) consuls, proconsuls, etc. of the county of Friesland; and also the outlines of another treaty [1498] between king Henry VII of England, and the arch-perfect, proconsuls, consuls, etc. of the city and territory of Riga.

During the ministry of Vergennes, [1776] four consuls general were appointed for the protection of commerce; one at Smyrna, another in the Morea, a third in Syria and Palestine, a fourth in Egypt, and four subordinate consuls at Salonica, Crimea, Cyprus and Aleppo, whose decisions were to be regulated by instructions, customs, and the unerring principles of natural law.

In consequence of an application by the consul of the Venetian merchants [1346] at Bruges, and an English merchant, the king now took all the merchants of Venice trading to England, Ireland, and his other dominions, under his protection during one year.

Macpherson, in his *Annals of Commerce*, observes that, "If he mistakes not, this is the earliest notice of the office of a consul of merchants in any English record; and adds, that long before this time, the commercial states in the Mediterranean had consuls in every considerable port to which they traded."

In the catalogue of the offices bestowed in this year, [1633] by King Charles, we find that John Stave is appointed consul general in the Kingdom of Portugal, which is the first instance of that office in Portugal to be found in the *Fœdera*.

Before the discovery of the West-Indies, there was established in different towns of Spain, a consular court called prior and consuls, for the regulation of internal commerce. The judges were elected annually by the merchants trading to the West-Indies, and had authority to try all civil and commercial causes relating to merchandise imported or exported from these countries, and full power to execute their decisions.

In the year 1593, Philip II organized consular courts in the towns of Mexico and Lima, resembling those of Seville and of Burgos, to take cognizance of all commercial and maritime cases, and the viceroy was judge of appeals. These courts were improved by Philip III and IV. This last king granted a yearly salary of five hundred dollars to each of the judges, consuls and priors of the consulate of Lima.

Consuls have existed since the introduction of a regular commerce. The object of their mission, especially in maritime ports, is to watch over the preservation of the rights and privileges of their nation, and to terminate contestations which arise among their mercantile compatriots.

It is evident, from the attributions given to them by the ancient and new laws, that consuls, to the character of political agent may unite that of judge.

But the administrative and judiciary functions, although cumulated on the same head, do not for that reason change their nature. Each continues to be respectively directed by principles inherent in the order of things to which it belongs.

Thus the acts of the political agent are under the immediate and exclusive inspection of the government, and cannot be separated from it by arbitrary actions of prosecution unauthorised by government.

If it were otherwise, an agent, useful and often necessary to the republic in our foreign relations, might suddenly and personally have his character exposed, without the knowledge of his government; and, every instant, operations of great importance to the general welfare might be troubled or suspended by the shock of particular passions.

Infractions against the laws in the administration of justice, as, in every other administration, ought to be punished; but when the safety of persons, accused of these infractions, is under the guarantee and protection of the government itself, the sanction of the government is necessary in legal suits against their persons.

Concerning Consular Powers, (see page 450, 11th line, of this volume) the following are the results of two important decisions, decided in the Courts of Cassation and Prize of Paris.—(See Warden 108 to 115.)

1. That a consul is both a judge and a political agent; from the nature and species of the functions which he exercises:

2. That as a judge, he might be prosecuted according to the terms of the civil law; but as his character of political agent is the principal and predominant, he cannot be prosecuted without the special and positive authorisation of his government:

3. That this measure is necessary, whoever be the person that commences the suit, and, with much greater reason, when he is a stranger; for then both persons and things are under the jurisdiction of the law of nations, the discussion of which belongs to government. In no case therefore, can a consul be prosecuted without the previous permission of his government.

The consul, charged with the affairs of his sovereign, and receiving his orders, remains accountable to him for his actions. The consul is not a public minister, and he cannot pretend to his prerogatives; nevertheless, as he is charged with a commission from his sovereign, and received in this quality by the chief where he resides,

he ought to enjoy, to a certain degree, the protection of the rights of nations. The sovereign who receives him, tacitly engages to grant him all the freedom and protection necessary to execute his functions with propriety; without which the admission of the consul would be vain and illusory. His functions require, that he be not a subject of the state where he resides, for in this case he would be obliged to follow its orders in every respect; nor could he freely execute the functions of his office. These seem to require, that the consul be independent of the ordinary criminal justice of the place of his residence: that he may not be molested nor imprisoned, unless he himself violate the rights of nations by some enormous offence. As he is under the particular direction of his sovereign, and charged to watch over his interests, the respect due to his master requires, that he be sent to him for punishment. He who receives a consul without express conditions, is understood to receive him on the footing established by usage. *Vattel*.

The opinion of writers of acknowledged authority, coincides nearly with that of *Vattel*. In the "Ambassador of Hottmann" we find the following observations:

"It appears that we might place in the rank of agents and ambassadors, consuls who settle the disputes of merchants, towns and provinces, in Algiers, Tunis, Tripoli, and other places of Barbary and Turkey; inasmuch as the prince nominates, authorises and recommends them by letters, and that, instead of ambassadors, they give advice and sometimes execute their duties with success. The Venetians have consuls in Cairo, in Aleppo, Rosetta, Alexandria, and other celebrated towns, which is of great importance; for besides the knowledge of commerce thence obtained, they receive news from all parts of the world; in which respects they surpass all other states and republics.

"Almost all the consuls sent out of Europe have a jurisdiction sufficiently extensive over subjects of their sovereign. There are places in Europe, where the consuls enjoy a civil jurisdiction more or less limited over the subjects of their master: in others, they can only exercise a voluntary jurisdiction; and besides, their general function is to watch over the interests of the commerce of their state, and particularly the observance of commercial treaties; and to assist, by interference and counsels, those of their nation whom commerce has brought to the place for which they are named. They are sometimes acknowledged by letters of credence, but oftener by a patent and letters of recommendation; and although they are under the particular protection of the rights of nations, they do not enjoy all the advantages which usage attributes to ministers, neither concerning honors, religion, nor the immunities relating to jurisdiction; so that it is only in a very extensive sense that they can be placed in the number of public ministers. Most consuls, out of Europe, approach the condition of ministers; some are at the same time consuls and ministers."

"Sometimes there are consuls general, who preside over many places at the same time, or who exercise authority over several consuls."

A modern writer, (*Boucher*) has observed, that a consul does not represent his prince; therefore he is not a public minister, and consequently he is not inviolable.

Another writer observes, that consuls are subjects employed in almost all maritime towns of importance, for the protection of commerce. There are many in the great mercantile towns of Europe, situated on the borders of the sea, or at the mouths of rivers. There are many in Africa, in Asia, and in the ports of the Levant. If consuls have letters of credence in due form, which authorise them to treat of affairs concerning their sovereign, they may, for this reason, perform the functions of a minister, without having the title; and therefore, as soon as they are acknowledged, they have a right to present memoirs, to have conferences, and to treat with towns and powers, of every thing which regards the commerce of the masters by whom they were sent. They have consequently the right of protection for their countrymen, which they may claim, in case of need, for themselves, their families, and public chapels. In some respects their jurisdiction extends farther than that of ministers of any order, as they are sovereign arbiters in commercial disputes. It is for this reason, as well as on account of the emoluments of consulates, that the employment is so much sought, especially in France. It results from what has been said, that consuls, by means of their attributions, may be placed in the rank of ministers.

The consul, although not a minister, enjoys various privileges, and that public safety which is granted to ministers by the laws of nations. Consuls are even considered as ministers; that is to say, in ports of the Levant, in the principal commercial towns of Asia and Africa, at Aleppo, Smyrna, Cairo, Alexandria, Tunis and Algiers.

According to the opinion of Bynkershoeck, consuls "are protectors, sometimes judges, of matters of their nation; usually themselves merchants, they do not represent their prince near a foreign sovereign, but protect the subjects of the prince in every thing respecting commerce. They also often examine and decide disputes which arise among them concerning this sort of affairs.

"Consuls are a species of residents, public ministers of the third order, which commercial nations, great and small, send to the principal seaports of Europe, of the Levant, of Africa and other places, to facilitate commerce, and to protect the navigation and merchants of their nation. For this purpose, they are furnished with letters of credence, and enjoy, on this account, the protection of the rights of nations, without however pretending to other distinctions." *Biefeld.*

"In some states of Europe, it has been proposed to separate the diplomatic from the consular career. These two form but one; the consul collects facts, the diplomat combines them for the formation of a treaty. If the consulate be not a ladder to mount to the embassy, the diplomat apprentice ought to travel with a mission of the court. A perspective ought to be offered to consuls; a pension of retreat to those who have merited it by their services; and an embassy to such as have displayed wisdom in their conduct, and economical views in their correspondence, for such men must be singularly fitted to conduct a negotiation. They are intimately acquainted with the business of a tariff, and to make it well, is the result of all the art of the negociator. I know that ambassadors have usually higher pretensions; but they seem to forget, that the strength of nations is founded on agriculture and manufactures." *Beajour.*

The cargo of the ship *Indian Chief* was claimed by M. Millar, acting as American consul at Calcutta. Destined for Hamburg, she touched at Cowes, where she was arrested and detained. Sir William Scott observed in this decision, that the office of consul does not distinguish the national character of the person who bears it, from that of the country where he resides. That persons are conceived to take their national character from that association under which they live and carry on their commerce. M. Millar must take his situation with all its duties; and amidst these duties, that of not trading with the enemies of his country. *Robinson's Adm'lty Rep'ts, Vol. 12.*

I agree, that a right more ancient and more sacred than political right, I mean the social right, authorises any person to pursue the affairs of one who is absent and ignorant of his personal situation, and who has need of the spontaneous aid of this natural benevolence, of which the germ cannot be entirely extinguished by our vices; a sentiment of which civil rights ought to sanction the effects.

It has been acknowledged in all ages, and among the most polished people, that one man, without the knowledge of another, may do him good; and that if he does no injury to others, he may, without authority, contribute to his advantage.

A consul is a kind of ambassador which one nation sends into the maritime ports of another, to reside there for the purpose of favoring the commerce of his fellow-citizens.

E X T R A C T S

FROM THE CORRESPONDENCE OF THE DIPLOMATIC AGENTS
OF THE UNITED STATES OF AMERICA.1. *From the Committee of Secret Correspondence to Silas Deane.*

Instructions to Mr Deane on his Departure for France. Extract.

PHILADELPHIA, March 3d, 1776. With the assistance of Monsieur Dubourg, who understands English, you will be able to make immediate application to Monsieur de Vergennes, *Ministre des Affaires Etrangères*, either personally or by letter, if M. Dubourg adopts that method, acquainting him that you are in France upon business of the American Congress, in the character of a merchant, having something to communicate to him, that may be mutually beneficial to France and the North American Colonies; that you request an audience of him, and that he would be pleased to appoint the time and place. At this audience if agreed to, it may be well to show him first your letter of credence, and then acquaint him that the Congress, finding that in the common course of commerce, it was not practicable to furnish the continent of America with the quantity of arms and ammunition necessary for its defence, (the Ministry of Great Britain having been extremely industrious to prevent it,) you had been despatched by their authority to apply to some European power for a supply. That France had been pitched on for the first application, from an opinion, that if we should, as there is a great appearance we shall, come to a total separation from Great Britain, France would be looked upon as the power, whose friendship it would be fittest for us to obtain and cultivate. That the commercial advantages Britain had enjoyed with the Colonies, had contributed greatly to her late wealth, and importance. That it is likely great part of our commerce will naturally fall to the share of France; especially if she favors us in this application, as that will be a means of gaining and securing the friendship of the Colonies; and that as our trade was rapidly increasing with our increase of people, and in a greater proportion, her part of it will be extremely valuable. That the supply we at present want, is clothing and arms for twenty-five thousand men, with a suitable quantity of ammunition, and one hundred field pieces. That we mean to pay for the same by remittances to France or through Spain, Portugal, or the French Islands, as soon as our navigation can be protected by ourselves or friends; and that we besides want great quantities of linens and woolens, with other articles for the Indian trade, which you are now actually purchasing, and for which you ask no credit, and that the whole, if France should grant the other supplies, would make a cargo which it might be well to secure by a convoy of two or three ships of war.

If you should find M. de Vergennes reserved, and not inclined to enter into free conversation with you, it may be well to shorten your visit, request him to consider what you have proposed, acquaint him with your place of lodging, that you may yet stay sometime at Paris, and that knowing how precious his time is, you

do not presume to ask another audience, but that if he should have any commands for you, you will upon the least notice immediately wait upon him. If at a future conference he should be more free, and you find a disposition to favor the Colonies, it may be proper to acquaint him, that they must necessarily be anxious to know the disposition of France, on certain points, which, with his permission, you would mention, such as whether if the Colonies should be forced to form themselves into an independent state, France would probably acknowledge them as such, receive their ambassadors, enter into any treaty or alliance with them, for commerce or defence, or both? If so, on what principal conditions? Intimating that you shall speedily have an opportunity of sending to America, if you do not immediately return, and that he may be assured of your fidelity and secrecy in transmitting carefully any thing he would wish conveyed to the Congress on that subject. In subsequent conversations, you may, as you find it convenient, enlarge on these topics, that have been the subjects of our conferences, with you, to which you may occasionally add the well known substantial answers, we usually give to the several calumnies thrown out against us. If these supplies on the credit of the Congress should be refused, you are then to endeavor the obtaining a permission of purchasing those articles, or as much of them as you can find credit for. You will keep a daily journal of all your material transactions, and particularly of what passes in your conversation with great personages; and you will by every safe opportunity, furnish us with such information as may be important. When your business in France admits of it, it may be well to go into Holland, and visit our agent there, M. Dumas, conferring with him on subjects that may promote our interest, and on the means of communication.

You will endeavor to procure a meeting with Mr. Bancroft by writing a letter to him, under cover to Mr Griffiths at Turnham Greene, near London, and desiring him to come over to you, in France or Holland, on the score of old acquaintance. From him you may obtain a good deal of information of what is now going forward in England, and settle a mode of continuing a correspondence. It may be well to remit him a small bill to defray his expenses in coming to you, and avoid all political matters in your letter to him. You will also endeavor to correspond with Mr Arthur Lee, agent of the Colonies in London. You will endeavor to obtain acquaintance with M. Garnier, late *Charge des Affaires de France en Angleterre*, if now in France, or if returned to England, a correspondence with him, as a person extremely intelligent and friendly to our cause. From him, you may learn many particulars occasionally, that will be useful to us.

B. FRANKLIN, BENJ. HARRISON, JOHN DICKINSON,
ROBERT MORRIS, JOHN JAY.

2. *S. Deane to the Committee of Secret Correspondence.*

First Interview with Vergennes—and Conversation on American Affairs. Extract.

PARIS, August 18th, 1776. M. Dubourg told me that the ministers would not see me, as they meant to be quite secret in any countenance they gave the United Colonies, and that my arrival in France was already known in London, in consequence of which Lord Stormont arrived express but a few days before, and had applied to the court on the subject. I showed him my commission, and told him I

was determined to apply; for every circumstance, in my opinion, was favorable instead of otherwise. On this he wrote a letter to the Count de Vergennes, asking liberty to introduce me the Thursday following, on which day I went to Versailles, and though the letter had not been delivered to his excellency, yet he gave us immediate admission. Fortunately his chief secretary spoke English well, by which means I had an opportunity of conversing freely with him on the subject of my commission for two hours, and was attentively and favorably heard by him, and was asked many questions, which shows that the American disputes had been, and still were a principal object of attention. I pursued nearly the line marked out by my instructions, stating the importance of the American commerce, and the advantages Great Britain had received from a monopoly of it. That all intercourse ceasing between the two countries the Colonies had considered where they might dispose of that produce, which they necessarily had so large a surplus of, and receive for their raw or first materials the various manufactures they wanted. That they first turned their eyes on France, as the best country in Europe for them to be connected with in commerce. That I was purchasing a large quantity of manufactures for which I expected to pay the money, and that I should want a quantity of military stores, for which remittances would be made. That I doubted not the colonies had before this declared independency, and that I should soon receive instructions in consequence, more full and explicit; that in the mean time they were very anxious to know how such a declaration would be received by the powers in Europe, particularly by France, and whether, in such case, an ambassador would be received from them, &c.

To which he replied, that the importance of the American commerce was well known, and that no country could so well supply the Colonies, and in return receive their produce as France; it was, therefore, the interest of both to have the most free and uninterrupted intercourse, for which reason the court had ordered their ports to be kept open, and equally free to America, as to Britain. That, considering the good understanding between the two courts of Versailles and London, they could not openly encourage the shipping of warlike stores, but no obstruction of any kind would be given; if there should, as the custom houses were not fully in their secrets in this matter, such obstructions should be removed, on the first application. That I must consider myself perfectly free to carry on any kind of commerce in the kingdom, which any subject of any other state in the world might, as the court had resolved their ports should be equally free to both parties. That I was under his immediate protection, and should I meet with any difficulty, either from their police, with the rules of which he supposed me unacquainted, or from any other quarter, I had but to apply to him and every thing should be settled. That as to independency, it was an event in the womb of time, and it would be highly improper for him to say any thing on that subject, until it had actually taken place; mean time he informed me, that the British ambassador knew of my arrival, and therefore advised me not to associate with Englishmen, more than I was from necessity obliged, as he doubted not I should have many spies on my conduct.

I then told him the precautions I had taken and should persevere in, in coming from Bermuda, and that I did not mean in public to pass for other than a merchant

from that island, on speculation, during the present cessation of commerce in America; but at the same time I told his excellency, that I was well assured it was known in London, that I was coming, long before I arrived at Paris, and I doubted not, they conjectured my errand, but at the same time, I should take every precaution in my power; and most sincerely thanked him for his protection and assistance so generously offered, which he might depend I would never abuse. He was pleased with my having come by Bermuda, and passing as an inhabitant of that island, and said, if questioned, he should speak of me in that character. He then asked me many questions with respect to the Colonies, but what he seemed most to want to be assured of, was their ability to subsist without their fisheries, and under the interruption of their commerce. To this I replied, in this manner, that the fisheries were never carried on, but by a part of the Colonies, and by them, not so much as a means of subsistence, as of commerce. That the fishery failing, those formerly employed in them, turned part to agriculture, and part to the army and navy. That our commerce must for sometime be in a great measure suspended, but that the greater part of our importations were far from being necessaries of life, consequently we should not suffer under the want of them, whilst it was not wealth or luxuries that we were contending for. That our commerce ceasing, it would be out of the power of our enemies to support themselves on our plunder, and on the other hand, our ships, as privateers, might harass their commerce, without a possibility of their retaliating. That I hoped to see a considerable marine force in the Colonies, and that, joined to the impossibility of Britain's guarding so extensive a coast, would preserve some of our commerce, until it should be thought an object deserving the protection of other powers.

After many questions on this subject, he put this, in which I thought he seemed interested,—whether, if the Colonies declare an independency, they would not differ among themselves? To this I replied, that the greatest harmony had as yet subsisted, and I had no grounds to doubt it in future; that the common danger, which first drove them into measures, which must end in such a declaration, would subsist, and that alone was sufficient to ensure their union.

He then desired me to give his secretary my address, and said, though he should be glad to see me often, yet as matters were circumstanced, his house was too public a place, but that I might put the same confidence in his secretary as himself, to whom I might apply for advice and direction, but that whenever any thing of importance occurred, I need but inform him, and he would see me; but on common occasions, I must address the secretary, which would be every way more convenient as he understood the English language well, and was a person in whom the greatest confidence could be placed. Having settled the mode of intercourse, I expressed the sense I had of his excellency's politeness, and the generous protection he had given me, and on parting said, if my commission or the mode of introducing the subject were out of the usual course, I must rely on his goodness to make allowances for a new formed people, in circumstances altogether unprecedented, and for their agent wholly unacquainted with courts. To which he replied, that the people and their cause were very respectable in the eyes of all disinterested persons, and that the interview had been agreeable.

I am, &c.

SILAS DEANE.

3. *S. Deane to the Committee of Secret Correspondence.*

Acknowledgment of American Independence by Foreign Powers. Extract.

Paris, 28th November, 1776. Gentlemen, Your favor of the 7th August last, covering a copy of yours of the 8th of July, I received, though the original never came to hand. This letter also enclosed the Declaration of Independency, with instructions to make it known to this and the other powers of Europe; and I received it the 5th inst. though the vessel which brought it had but 38 days passage from Salem. This letter was very far from relieving me, as it enclosed what had been circulated through Europe for two months before, and my pretending to inform this Court would be only a matter of form, in consequence of your orders, which were expressed in the style of any common affair. I certainly prefer simplicity of style, as well as manners, but something is due to the dignity of old and powerful states, or if you please to their prejudices in favor of long established form and etiquette; and as the United States of America, by this act, introduced themselves among the established powers, and rank with them, it must of course be expected that at the first introduction, or the announcing of it, some mode more formal, or if I may so say, more respectful, would have been made use of, than simple two or three lines from the committee of congress, in a letter something more apparently authentic, not that either your power or the reality of your letter could be doubted. I mention it as deserving consideration, whether in your application here and your powers and instructions of a public nature, it is not always proper to use a seal? This is a very ancient custom in all public and even private concerns of any consequence.

As the copy was dated the eighth of July I took occasion to observe, that the honorable Congress had taken the earliest opportunity of informing this Court of the declaration of their Independency, and that the variety of important affairs before Congress, with the critical situation of the armies in their neighborhood, and the obstructions of their commerce, had prevented that intelligence which had been wished for, but that the present served to shew the early and principal attention of the United States to this Court; and as their Independency was now in form declared, the queries I had formerly put in consequence of my first instructions might now be resolved and I hoped favorably.

To this I was answered, unless France by a public acknowledgment of your Independency makes war on Great Britain in your favor, what service can such acknowledgment be of to the United States? You are known here, our ports are open, and free for your commerce, and your ships are protected in them, and greater indulgencies allowed than to any other nations. If France should be obliged to make war on England, it will be much more just and honorable in the eyes of the world to make it on some other account; and if made at all, it is the same thing to the United States of America, and in one important view better for them, to have it originate from any other cause, as America will be under the less immediate obligation. Further, France has alliances, and cannot resolve a question which must perhaps involve her in a war, without previously consulting them. Meantime the United States can receive the same succors and assistance from France without, as well as with, such an open acknowledgment, and much more advantageously. To this and such like arguments I had the less to reply, as you informed me that ar-

ticles for a proposed alliance with France, were under consideration, and that I might soon expect them.

I was further told that the Swiss Cantons, though in every respect free and independent States for several centuries, had not to this hour been acknowledged as such by any public act of any one power in Europe, except France, and that neither the Revolution in the United Provinces or Portugal had been attended with any such acknowledgment, though the powers of Europe in both cases lent their aid. I replied that I would not urge a formal acknowledgment, as long as the same ends could be obtained without the inconveniences hinted at: as I expected further instructions I would reserve myself until their arrival. The apprehensions of the United States negotiating, has done us much damage, and the interview at New York said to have been between a Commissioner of Congress and the two brothers however politic the step may have been in America, was made use of to our prejudice in Europe, at this Court in particular, as it has been for some time asserted by Lord Stormont and others, that a negotiation would take place, and as far as this is believed, so far our cause has suffered and our friends been staggered in their resolutions. My opinion is, that the House of Bourbon, in every branch, will be our friends; it is their interest to humble Great Britain. **SILAS DEANE.**

4. *S. Deane to the Committee of Secret Correspondence.*

Lafayette's offer of Service. Extract.

Paris, December 6, 1776. The desire which the Marquis de la Fayette shows of serving among the troops of the United States of North America, and the interest which he takes in the justice of their cause makes him wish to distinguish himself in this war, and to render himself as useful as he possibly can; but not thinking that he can obtain leave of his family to pass the seas, and serve in a foreign country, till he can go as a general officer, I have thought I could not better serve my country, and those who have intrusted me, than by granting to him in the name of the very honorable Congress the rank of Major General, which I beg the States to confirm to him, to ratify and deliver to him the commission to hold and take rank, to count from this day, with the general officers of the same degree.

His high birth, his alliances, the great dignities which his family holds at this Court, his considerable estates in this realm, his personal merit, his reputation, his disinterestedness, and above all his zeal for the liberty of our provinces, are such as to induce me alone to promise him the rank of major general in the name of the United States. In witness of which I have signed the present, this 7th of December, 1776. **SILAS DEANE.**

On the conditions here explained, I offer myself, and promise to depart when and how Mr Deane shall judge proper, to serve the United States with all possible zeal, without any pension or particular allowance, reserving to myself the liberty of returning to Europe when my family or my king shall recall me.

Done at Paris this 7th of December, 1776.

The MARQUIS de la FAYETTE.

5. *B. Franklin and S. Deane, to the Committee of Secret Correspondence.*

Favorable, but cautious, Policy of the French Court. Extract.

Paris, 12th March, 1777. Gentlemen, In our first conversation with the minister, after the arrival of Mr Franklin, it was evident that this Court, while it treated

us privately with all civility, was cautious of giving umbrage to England, and was therefore desirous of avoiding an open reception and acknowledgment of us, or entering into any formal negotiation with us, as ministers from the Congress. To make us easy, however, we were told that the ports of France were open to our ships as friends, that our people might freely purchase and export, as merchandise, whatever our States had occasion for; vending, at the same time, our own commodities; that in doing this, we should experience all the facilities that a government disposed to favor us could, consistent with treaties, afford to the enemies of a friend. But though it was at that time no secret that two hundred field pieces of brass, and thirty thousand fusils, with other munitions of war, in great abundance, had been taken out of the king's magazines, for the purpose of exportation to America; the minister, in our presence, affected to know nothing of that operation, and claimed no merit to his Court on that account. But he intimated to us that it would be well taken, if we communicated with no other persons about the Court, concerning our affairs but himself, who would be ready at all convenient times to confer with us.

We soon after presented several memorials, representing the state of the Colonies, the necessity of some naval aid, and the utility to France, that must result from our success in establishing the independence of America, with the freedom of its commerce. In answer, we received a positive refusal of the ships of the line, (which we had been instructed to ask,) on this principle, that if a war with England should take place, the whole fleet of France would be necessary at home for her defence; that if such a war did not take place, yet while England apprehended a war, it was equally serviceable to our States, that the fleet of France should remain entire in her ports, since that must retain an equal force of English at home, who might otherwise go to America, and who certainly would follow thither any French Squadron. During these conferences, every step was taken to gratify England *publicly*, by attending to the remonstrances of her ambassador, forbidding the departure of ships which had military stores on board, recalling officers who had leave of absence, and were going to join us, and giving strict orders, that our prizes should not be sold in French ports; yet we might not be discouraged, it was intimated to us by persons about the Court, that these measures were necessary at present, France not being yet quite ready for a war, and that we might be assured of her good will to us and our cause.

All Europe is for us. Our articles of confederation, being by our means translated, and published here, have given an appearance of consistence and firmness to the American States and Government, that begins to make them considerable. The separate constitutions of the several States are also translating and publishing here, which afford abundance of speculation to the politicians of Europe, and it is a very general opinion, that if we succeed in establishing our liberties, we shall, as soon as peace is restored, receive an immense addition of numbers and wealth from Europe, by the families who will come over to participate in our privileges, and bring their estates with them. Tyranny is so generally established in the rest of the world, that the prospect of an asylum in America, for those who love liberty, gives general joy, and our cause is esteemed the cause of all mankind. Slaves naturally become base, as well as wretched. We are fighting for the dig-

nity and happiness of human nature. Glorious is it for the Americans, to be called by providence to this post of honor. Cursed and detested will every one be that deserts or betrays it!

The tone of the Court accordingly rises, and it is said, that a few days since, when the British Ambassador intimated to the Minister, that if the Americans were permitted to continue drawing supplies of arms, &c. from this kingdom, the peace could not last much longer; he was firmly answered—*Nous ne desirons pas le guerre, mais nous ne la craignons pas.* “We neither desire war, nor fear it.”

We are glad to learn the intention of Congress to send ministers to the empires of Prussia and Tuscany. With submission, we think Holland, Denmark, Sweden, and Russia, (if the expense is no objection,) should not be neglected.

With great respect, &c.

B. FRANKLIN, SILAS DEANE.

6. *Franklin, Deane, and Lee, to the Committee of Foreign Affairs.*

French Court determined to acknowledge Independence—to make a Treaty of Amity and Commerce. Extract.

Paris, 18th Dec. 1777. On signifying to the ministry the importance it might be of at this juncture [Burgoyne's surrender] when probably Britain would be making some propositions of accommodation, that the Congress should be informed explicitly what might be expected from France and Spain, M. Gerard, one of the secretaries, came yesterday to inform us, by order of king, that after long and full consideration of our affairs and propositions, in council, it was decided, and his majesty was determined to acknowledge our independence, and make a treaty with us of amity and commerce; that in this treaty no advantage would be taken of our present situation, to obtain terms from us, which otherwise would not be convenient for us to agree to; his majesty desiring that the treaty, once made, should be durable, and our amity subsist forever; which could not be expected, if each nation did not find its interest in the continuance, as well as in the commencement of it. It was therefore his intention, that the terms of the treaty should be such as we might be willing to agree to, if our State had been long since established, and in the fullness of strength and power, and such as we shall approve of when that time shall come. That his majesty was fixed in his determination, not only to acknowledge but to support, our independence, by every means in his power. That in doing this, he might, probably, soon be engaged in a war, with all the expenses, risks, and damages, usually attending it, yet he should not expect any compensation from us on that account, nor pretend that he acted wholly for our sakes; since, besides his real good will to us and our cause, it was manifestly the interest of France, that the power of England should be diminished by our separation from it. He should, moreover, not so much as insist, that if he engaged in a war with England on our account, we should make a separate peace; he would have us be at full liberty to make a peace for ourselves,* whenever good and advantageous terms were offered to us. The only condition he should require and rely on would be this, that we, in no peace to be made with England, should give up our independence, and return to the obedience of that government. That as soon as the courier returned from Spain, with the concurrence expected, the affair would be proceeded in and concluded; and of this we might give the Congress the strongest assurances in our despatches, only cautioning them to keep the whole, for the present, a dead secret, as

*See Vergennes, Dec. 15, and Franklin, Dec. 17, 1782.

Spain had three reasons for not immediately declaring; her money fleet not yet come home; her Brazil army and fleet the same; and her peace with Portugal not yet quite completed; but these obstacles would, probably, soon be removed. We answered, that, in what had been communicated to us, we perceived, and admired equally the king's magnanimity and his wisdom; that he would find us faithful and firm allies, and we wished, with his majesty, that the amity between the two nations might be eternal. And, mentioning that republics were usually steady in their engagements, for instance, the Swiss cantons, the Secretary remarked, that France had been as steady with regard to them, two hundred years having passed since their first alliance for fifty years had commenced, which had been renewed from time to time; and such had been her uniform good faith towards them, that, as it appeared in the last renewal, the Protestant cantons were free from their ancient prejudices and suspicions, and joined readily with the rest in the league of which we herewith send you a copy. With great respect, &c.

B. FRANKLIN, SILAS DEANE, ARTHUR LEE.

7. *Franklin, Lee, and Adams, to M. Dumas.*

Treaty with Holland.

Passy, October 16th, 1778. Sir, We have received yours of the 2d instant, with the declaration signed by M. Van Berckel, and his explanatory letter to you, which gave us much pleasure, as they show the good disposition of that respectable body, the Burgo-masters of Amsterdam, towards the United States of America, and their willingness, as far as may depend on them, to promote between the republic of the United Low Countries in Europe, and the said States, "A treaty of perpetual amity, containing reciprocal advantages with respect to commerce between the subjects of the two nations." As that body must be better acquainted than we, with the method of doing public business in their country, and appear to be of the opinion, that some previous steps can be taken by them, which may facilitate and expedite so good a work, when circumstances shall permit its coming under the consideration of their High Mightiness, we rely on their judgment, and hereby request they would take those steps, as explained in M. Van Berckel's letter.

And they may be assured, that such a treaty as is described would, at this time, meet with no obstacles on the part of the United States of America, who have great esteem and respect for your nation; and that nothing will be wanting on our part to accomplish the end proposed. We would only remark, that the mentioning it in the declaration as a thing necessary to precede the conclusion of such a treaty, "that the American Independence should be acknowledged by the English," is not understood by us, who conceive there is no more occasion for such an acknowledgement before a treaty with Holland, than there was before our treaty with France. And we apprehend, that if that acknowledgment were really necessary, or waited for, England might endeavor to make an advantage of it in the future treaty of pacification, to obtain for it some privileges in commerce, perhaps, exclusive of Holland. We wish, therefore, that idea to be laid aside, and that no further mention may be made to us of England in this business.

We are, Sir, yours with respect &c.

B. FRANKLIN, ARTHUR LEE, JOHN ADAMS.

8. *Memorial Presented to the Court of Spain.*

American Commerce—Impolicy of allowing the Union of the Colonies by Conquest, &c. Ex.

Burgos, March 8, 1777. It is manifest, that the neutrality of Spain and France leaves the field open to the operations of the British foece, and to the production of one of those events, either of which must be highly prejudicial to both nations and advantageous to their enemy. If Great Britain should be victorious, America will become a powerful instrument in her hands, to be wielded at her will against these countries; and that it will not remain long unemployed, no one will doubt, who knows that the Court of Great Britain is well informed of the countenance, at least, given to what they call a most dangerous rebellion, and that the head of that Court is of a temper that never forgives or forgets.

If an accommodation should produce a re-union, the same advantages will be lost, and almost all the same consequences are to be feared. The end of the campaign cannot, therefore, promise so favorable a moment for the interposition of Spain and France as the present; and in all probability it will be then fruitless.

In truth, what moment can be wished more favorable than the present, when Great Britain is so equally matched by what were her Colonies, that the scales hang doubtful? Nor can it be questioned, that the interposition of Spain or France, and much more of both, would make that of America decidedly preponderate, and separate her from Great Britain forever. And what object can be more important, than to deprive her of this great and growing source of her commerce and her wealth, her marine, and her dominion?

There is nothing of which the Court of Great Britain is more persuaded, than that the loss of America would be the inevitable consequence of a war in Europe; nor is there a man in the nation that is ignorant of it; hence it is, that the king finds himself obliged, in all his speeches, to assure his Parliament of the tranquility of Europe, that they may be emboldened to support his war against America. Hence it is, that they have labored to prevent a rupture between Spain and Portugal, and have, at length, renounced the latter. It is therefore certain, that Great Britain would endure any insult, short of an open and outrageous act of hostility, rather than engage in a European war during her contest with America.

During the last war, America contributed twelve thousand seamen, and twenty thousand troops to the assistance of Great Britain. These are now tripled against her. The commerce of America, according to the declaration of Mr Pitt, who conducted it, carried Great Britain triumphantly through it. The full tide of that commerce is now turned against her. From America, all the expeditions against the Islands of Spain and France were then supplied. Now these supplies are ready to assist in seizing her Islands.

Deprived of all those aids, which ministered to her success and her triumphs during the last war, what could prevent her now from experiencing the bitter reverse of her former fortune? What policy can withhold two Sovereigns, whose prosperity is incompatible with her power, to let slip such an opportunity of humbling her as may never return?

If Great Britain should be again united to America by conquest or conciliation, it would be in vain to menace her with war. America has been felt, like Hercules in his cradle. Great Britain, knit again to such growing strength, would reign the

irresistable, though hated arbiter of Europe. This then is the moment in which Spain and France may clip her wings and pinion her forever. One of the most respectable bodies in England told their Sovereign some two years since, with a kind of prophetic spirit, that his Ministers were precipitating his dominions into a situation in which their existence would depend upon the forbearance of their enemies. That situation is now certainly occurred. The rest as certainly remains in the arbitration of Spain and France.

ARTHUR LEE.

9. *Answer, to the Memorial, by the Marquis de Grimaldi at Vitoria.*

You have considered your own situation and not ours. The moment is not yet come for us. The war with Portugal—France being unprepared, and our treasure from South America not being arrived—makes it improper for us to declare immediately. These reasons will probably cease within a year, and then will be the moment.

10. *The Commissioners at Paris to Baron de Schulenburg, Minister to the King of Prussia.*

Congress propose to send a Minister to Prussia.

Paris, April 19th, 1777. Sir, We received the letter, which you did us the honor to write to us on the 15th ult. and should earlier have replied particularly thereto, but from the daily expectation we had of receiving orders from the Congress of the United States on this important subject. We have their commands to inform his Prussian Majesty's Ambassador here, that they propose to send a minister to your respected Court with all convenient expedition, properly empowered to treat upon affairs of importance, and that we are in the mean time, instructed and authorised by Congress to solicit the friendship of your Court, to request that it would afford no aid to their enemies, but use its good offices to prevent the landing of troops by other powers to be transported to America for their destruction, and to offer the free commerce of the United States to the subjects of Prussia.

We have taken the earliest opportunity of obeying these commands. But considering the great importance of establishing a free commerce between the two countries as soon as possible, and confident that every objection may be obviated, and the wished for intercourse opened and established on the most certain and beneficial grounds to promote the interest of both countries, we propose that one of us shall wait on your Excellency as soon as conveniently may be done, to explain personally the situation of America, the nature, extent, and importance of its commerce, and the methods by which it may be carried on with Prussia to mutual advantage. In the proposed interview, we are confident the difficulties mentioned by your Excellency may be surmounted, and a very considerable part of American commerce be turned to Prussia, by measures neither dangerous nor expensive.

We have the honor to be, &c.

SILAS DEANE,

B. FRANKLIN,
ARTHUR LEE,

11. *James Lovell to Silas Deane.*

Mr Deane's Recall.

York, 8th December, 1777. Sir, By accident I find myself called upon singly to execute the duty of the committee of foreign affairs, in communicating to you an order of Congress, of this day, respecting your return to America:

The order stands in need of no comment from the committee to elucidate it; and being drawn up in terms complimentary to your abilities of serving these United States upon your arrival here, I take pleasure in conveying it: being, sir, your very humble servant.

JAMES LOVELL.

12. *From Count de Vergennes to the President of Congress.*

Approbatory of Mr Deane's Conduct in France.

Versailles, the 25th March, 1778. Sir, Mr Deane being about to return to America, I embrace the occasion with pleasure to give my testimony to the zeal, activity, and intelligence with which he has conducted the interests of the United States, by which he has merited the esteem of the king my master, and for which his Majesty has been pleased to give him marks of his satisfaction. Mr Deane will be able to inform Congress of the disposition of the king towards the United States. The engagements formed with his Majesty, will doubtless satisfy their wishes; the king on his part is not only convinced, that they are founded on principles unalterable, but also that they will contribute to the happiness of both nations.

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

13. *From Count De Vergennes to Silas Deane.*

Commendatory of Mr Deane's Conduct.

Versailles, 26th March, 1778. As I am not, Sir, to have the honor of seeing you again before your departure, I pray you to receive here my wishes, that your voyage may be short and happy, and that you may find in your own country the same sentiments, which you have inspired in France. You need not, Sir, desire any addition to those which I have devoted to you, and which I shall preserve for you to the end of my life: they will be sureties to you of the true interests, which I shall forever take in your happiness, as well as in the prosperity of your country.

The king, desirous of giving you a personal testimony of the satisfaction he has in your conduct, has charged me to communicate it to the President of the Congress of the United States. This is the object of the letter, which Mr Gerard will deliver you for Mr Hancock. He will also deliver you a box with the king's portrait. You will not, I presume, Sir, refuse to carry to your country the image of its most zealous friend: the proof of this is in facts.

I have the honor to be, &c.

DE VERGENNES.

14. *Arthur Lee to the Committee of Foreign Affairs.*

Propriety of determining the future Rank of the United States in their intercourse with Foreign Powers. Extract.

Paris, April 2d, 1778. Gentlemen, The conclusion of the treaties here has ended the powers of our commission. Whatever character it may please Congress to give to their representatives in future, must be specified by new powers, and letters of credence to the Sovereign, with whom they are to act. The first example of this kind will be material, in determining the future rank of the United States of America among other sovereign nations. Since the treaty of Munster, Venice and the United Provinces have had their rank as crowned sovereigns, I presume the United States of America will not think a lower rank competent to their dignity, and to the importance they must command in the balance of European

power. For I am satisfied, that in a few years that balance must be in their hands. Whatever orders Congress are pleased to give on this subject, their Ministers must support with firmness and inflexibility, at first, to prevent any disagreeable disputes for the future. I have the honor to be, &c. ARTHUR LEE.

15. *Arthur Lee to Count de Vergennes.*

Explanation of the 12th art. of the Treaty.

Chaillot, June 14th, 1778. Sir, It was with great pleasure I heard the explanation, which your Excellency did me the honor to give me yesterday relative to the 12th article of the Commercial Treaty; that it was meant to comprehend only provisions, and not the whole of our exports to his Majesty's Islands, and that *denrees* the word employed, signifies eatables, not merchandise. It relieved the apprehensions I had entertained, that the having set in that article the whole of our produce against one of your productions would seem unequal, would therefore give uneasiness in Congress, and prevent that unanimity in their approbation of the treaty, which the wise and liberal principles on which it is planned deserve; and which I most sincerely wished it might receive.

Upon referring, however, to the words of the treaty, I find they are *denrees et marchandise*, so that the words appear, by I know not what accident, to have been different from, and to mean more than you intended. I lament extremely that nothing of this explanation passed in our conference and correspondence with M. Gerard on this and the preceding article. Yet I am not without hope, that Congress will rather trust to the equity of your Court for reducing the article to its intended equality, than gratify our enemies by an appearance of dissension in ratifying the treaties.

Reciprocity and equality being the principles of the treaties, and duration the object, your Excellency will, in my judgment, have an opportunity of strengthening the confidence and ties between us, by offering to remove words of a latitude not intended, and of an inequality, which must be seen and create dissatisfaction.

I have the honor to be, &c.

ARTHUR LEE.

16. *Instructions to William Lee.*

Commissioners to the Courts of Vienna and Berlin—solicit the acknowledgment of the Independence of the States.

Philadelphia, July 1st, 1777. Sir, Herewith you will receive Commissions from the Congress of the United States of North America, authorising and appointing you to represent the said Congress as their Commissioner at the Courts of Vienna and Berlin. You will proceed with all convenient expedition to those Courts; visiting that first, which, on consultation with the Commissioners at the Court of France, shall be judged most proper. You will lose no time in announcing in form to those Courts the declaration of Independence made in Congress on the fourth of July, 1776. The reasons of this act of Independence are so strongly adduced in the declaration itself, that further argument is unnecessary. As it is of the greatest importance to these States, that Great Britain be effectually obstructed in the plan of sending of German and Russian troops to North America, you will exert all possible address and vigor to cultivate the friendship, and procure the interference of the Emperor and of Prussia. To this end you will pro-

pose treaties of friendship and commerce with these powers, upon the same commercial principles as were the basis of the first treaties of friendship and commerce proposed to the Courts of France and Spain, by our Commissioners, and which were approved in Congress the seventeenth day of September, 1776, and not interfering with any treaties, which may have been proposed to, or concluded with, the Courts abovementioned. For your better instruction herein, the Commissioners at the Court of Versailles will be desired to furnish you, from Paris, with a copy of the treaty originally proposed to Congress, to be entered into with France, together with the subsequent alterations that have been proposed on either side.

You are to propose no treaty of commerce to be of longer duration, than the term of twelve years from the date of its ratification by the Congress of the United States. And it must never be forgotten, in these commercial treaties, that reciprocal and equal advantages to the people of both countries be firmly and plainly secured.

There being reasons to suppose, that his Prussian Majesty makes commerce an object, you will not fail to place before him, in the clearest light, the great advantages, that may result from a free trade between the Prussian dominions and North America.

You will seize the first favorable moment to solicit, with decent firmness and respect, an acknowledgement of the independence of these States, and the public reception of their Commissioner as the representative of sovereign States. The measures you may take in the premises, and the occurrences of your negotiation, you will communicate to Congress by every opportunity.

It may not be improper to observe, that these instructions, and all others, which you may receive from time to time, should be kept as secret as circumstances will admit.

JOHN HANCOCK, *President of Congress.*

17. *William Lee to the President of Congress.*

Open Acknowledgment of the Independence of the U. S. by the Court of France. Extract.

Paris, March 23d, 1778. Sir, To the enclosed copy of my last be pleased to refer. I have the pleasing satisfaction of congratulating you and my country on the independency of the thirteen United States of America being now *openly* acknowledged by the Court of France, which must soon put a glorious end to all our troubles. About fourteen days ago the French Minister in London formally avowed to the British Ministry the treaty, which His Most Christian Majesty had made with you, and on the 20th inst your Commissioners were, in form, introduced to the King and his Ministers at Versailles, as the representatives of a sovereign State, and on Sunday last they were introduced to the Queen and the royal family.

I have already claimed the King of Prussia's promise to acknowledge our Independence as soon as France has done so; his answer I shall meet in Germany, and as far as one can judge at present, there is a greater probability of my being sooner openly received at Berlin than at Vienna, but on this head, and at this critical moment, it is impossible for any man in the world to form a decisive opinion, because the issue will depend on events that are yet in the womb of time; therefore, all that is in prudence for me to do is, on the spot to seize the first opening

that is made on either side in our favor; and I shall take care to give you the earliest intelligence of every thing material, that occurs in my department.

I have the honor to remain, &c.

WILLIAM LEE.

18. *William Lee to the Committee of Foreign Affairs.*

Retires from Vienna—Draught of a Treaty between Holland and the United States. *Ext.*
Paris, September 12th, 1778. Gentlemen, Since my last of the 30th of May, when the war broke out between the Emperor and the King of Prussia, on consultation with the French Ambassador at Vienna, it was agreed to be most advisable for me to retire to Frankfort, and wait there until the several powers in Germany and the rest of Europe had taken a decided line in this war, when we might be able to direct our operations to the most advantage for America, since it was evident, that neither the Court of Vienna, nor that of Berlin could, in their critical situation, take an open part with us, for fear of throwing Hanover, with a body of thirty thousand men, into the scale of the adversary, especially too as France had declared a neutrality, on the urgent application of the House of Austria for aid, under the treaties subsisting between them and France; to which however France replies with truth, that the case does not exist as specified in the treaty, which obliges them to aid the House of Austria.

After my arrival at Frankfort, finding an opportunity offered to me of negotiating a Treaty of commerce with the United States of Holland and West Friesland; I embraced it, and have proceeded so far as to agree on the draught of a treaty, with the regular representative of the Pensionary and Burgomasters of the city of Amsterdam, of which I have not time to send you a copy by this conveyance, but I am sure you would approve of it, as it contains all the substantially advantageous articles of the commercial treaty with France, and some beneficial and agreeable additions.

So far, the business has been conducted on both sides with great secrecy, which is absolutely necessary in order to procure final success with the United States here, for though the city of Amsterdam and the States of Holland pay, it is supposed, about five sixths of the whole taxes for the support of the government, which consequently gives them very powerful weight and influence, yet they have no power, by their constitution, of entering into such a treaty, without the concurrence of the other United States, in some of which the Prince of Orange has an over due influence, and all the world knows his blood connexions with the king of England, as well as that he has the same designs against his country, that have been attempted to be carried into execution against us, and which he hopes to succeed in by the aid of his cousin of England, with whom he is in the strictest intimacy. This renders secrecy of the last importance, until the patriots in Holland have secured success, before the business is agitated in the General Assembly of the States, where it must come, to have full authority.

Here I find myself embarrassed, because I have no power to sign such a treaty and I know not how to determine as yet about communicating it, in the present situation of things, to those who have a power to sign it in your name; because it is well known that some of the most important negotiations and proceedings here, relative to your affairs, have sometime past been very speedily communicated in England, and I have not yet been able to learn that the old channel is stopped. I shall,

however, proceed in the manner, that shall, on the maturest reflection, appear the best to forward the wishes of Congress, and advance the prosperity of our country.

In a week or ten days I shall return to my station in Germany, and watch with careful attention over my charge there, and when any thing material occurs you shall be duly advised.

I have the honor, &c.

WILLIAM LEE.

19. *B. Franklin, and S. Deane to the President of Congress.*
Treaty of Amity and Commerce, and of Alliance, concluded and signed. Extract.

Passy, 8th February, 1778. Sir, We have now the great satisfaction of acquainting you and the Congress, that the treaties with France are at length completed and signed.* The first is a treaty of amity and commerce, much on the plan of that projected in Congress; the *other* is a treaty of *alliance*, in which it is stipulated, that in case England declares war against France, or occasions a war by attempts to hinder her commerce with us, we should then make common cause of it, and join our forces, and councils, &c. The great aim of this treaty is declared to be to "establish the liberty, sovereignty and independency, absolute and unlimited, of the United States, as well in matters of government as commerce;" and this is guarantied to us by France, together with all the countries we possess, or shall possess at the conclusion of the war; in return for which the States guaranty to France, all its possessions in America. We observe to you, and with pleasure, that we have found throughout this business, the greatest cordiality in this Court; and that no advantage has been taken, or attempted to be taken of our present difficulties, to obtain hard terms from us; but such has been the King's magnanimity and goodness, that he has proposed none which we might not readily have agreed to in a state of full prosperity and established power. The principle laid down as the basis of the treaty, being as declared in the preamble, "the most perfect equality and *reciprocity*," the privileges in trade, &c. are mutual, and none are given to France, but what we are at liberty to grant to any other nation.

On the whole, we have abundant reason to be satisfied with the good will of this Court, and of the nation in general, which we therefore hope will be cultivated by the Congress, by every means which may be establish the Union, and render permanent. We have the honor to be, &c. B. FRANKLIN, S. DEANE.

* For the Treaty of Amity and Commerce, and of Alliance, see vol. 1, from pages 34 to 64. The *Letter of Credence* (the first on record in our political annals) furnished by the Revolutionary Congress to the three Commissioners, who negotiated these treaties, is as follows:

"The Delegates of the United States of New Hampshire, Massachusetts Bay, Rhode Island, Connecticut, New-York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to all who shall see these presents, send Greeting:—Whereas a trade, upon equal terms, between the subjects of his most Christian Majesty, the King of France and the people of these States, will be beneficial to both nations;—Know ye, therefore, that we, confiding in the prudence and integrity of *Benjamin Franklin*, one of the Delegates in Congress, from the State of Pennsylvania, and President of the Convention of the said State, &c. *Silas Deane*, now in France, late a Delegate from the State of Connecticut; and *Arthur Lee*, barrister at law, have appointed and deputed, and by these presents do appoint and depute them, the said *Benjamin Franklin*, *Silas Deane*, and *Arthur Lee*, our Commissioners, giving and granting to them, the said Franklin, Deane, and Lee, or any two of them, and in case of the death, absence, or disability of any two, or any one of them, full power to communicate, treat, agree and conclude with his most Christian Majesty, the King of France, or with such person or persons, as shall by him be for that purpose authorized, of and upon a true and sincere friendship, and a firm, inviolable and universal peace for the defence, protection, and safety of the navigation and mutual commerce of the subjects of his most Christian Majesty, and the people of the United States, and to do all other things, which may conduce to those desirable ends, and promising in good faith to ratify whatsoever our said Commissioners shall transact in the premises. Done in Congress, in Philadelphia, the thirtieth day of September, in the year of our Lord one thousand seven hundred and seventy-six."

20. *Henry Laurens to the Ministers of the United States at Paris.*

Conference with Mr Fox, and the Duke of Portland. Extract.

London, August 9th, 1783. Gentlemen, I arrived in London late in the night of the 3d, and on the 5th had a conference with Mr Fox, which I committed to writing as soon as it had ended. I shall give it in a short dialogue, as the best way; not pretending to accuracy in every word, but fully preserving the sense and substance:

Mr Fox. I suppose, Mr L. you wish to forward the ratification of the provisional articles.

L. I could wish that was done, Sir, but it is not the particular business I have in charge.

F. I understood from Mr Hartley's letter, which you sent me, that it was; but he does not speak positively.

L. No, Sir, the only business I have in charge, is to inquire, whether a Minister from the United States of America would be properly received at this Court.

F. Most undoubtedly, sir; I could wish that there was one here at present; I think we have lost much time from a want of a Minister from your side.

L. Then, Sir, will you be so good as to ask his Majesty, and inform me?

F. I will take the King's pleasure to-morrow, and you shall hear from me; I suppose there is already a conditional appointment of some person now in Europe.

L. Not that I know of, though I do not know the contrary, but I have an excellent opportunity of writing to Congress, and I have no doubt an appointment will be made immediately.

F. That is unlucky; there must be two crossings of the ocean then; if a Minister of Congress had been here, we might have done our business in half the time we have already spent, but I shall certainly inform you tomorrow; this is the very time a Minister from your people is most necessary.

L. Though I have nothing particularly in charge except the business already mentioned, I regret the delay of both the commercial and definitive treaty. We had flattered ourselves with hopes in March and April, that both would have been finished in a few days.

F. Why, as to a definitive treaty, I cannot see any necessity for one, or not immediately. The provisional articles are to be inserted, and to constitute a treaty; a ratification of those, I apprehend, will answer all the purposes of a definitive treaty; they may be made definitive. The case with respect to France and Spain differs widely; several articles in our preliminaries with them refer to a definitive treaty.

L. I agree with you, Sir, that the provisional articles, mutually ratified, may, by the consent of the parties, be made definitive; but there may be additional articles suggested and agreed to for the mutual benefit.

F. That is true; but I do not see any at present. I very much regret the want of a Minister from America.

L. Permit me, Sir, to ask you, is it intended by the proclamation of the 2d of July, to exclude American ships from the West India trade, between the United States and the British islands?

F. Yes, certainly, it was so intended, in order that we might have something to treat for, and this will be a subject for a commercial treaty.

On the 6th, I waited upon his Grace, the Duke of Portland. His grace was equally clear and positive as Mr Fox had declared himself, that a Minister from the United States of America would be well received at this court, and also regretted that an appointment had not earlier taken place. I touched upon the commercial and definitive treaty, referred to assurances in March and April, intimated my apprehensions of pernicious effects, which might arise from excluding American ships from a freedom between the United States and the British West India Islands, adding what I had learnt from Doctor Franklin of the commerce intended by the

Court of France, between our America and the French Islands. I can only say, the Duke seemed to wish that every thing had been settled to mutual satisfaction, and hoped that every thing would soon be settled.

I have the honor to be, &c.

HENRY LAURENS.

21. *Instructions to B. Franklin, as Minister Plenipotentiary to France.*

We, the Congress of the United States of North America, having thought it proper to appoint you their Minister Plenipotentiary to the Court of His Most Christian Majesty, you shall in all things, according to the best of your knowledge and abilities, promote the interest and honor of the said States, at that Court, with a particular attention to the following instructions:

1. You are immediately to assure His Most Christian Majesty, that these States entertain the highest sense of his exertions in their favor; particularly by sending the respectable squadron under the Count d'Estaing, which would probably have terminated the war in a speedy and honorable manner, if unforeseen and unfortunate circumstances had not intervened:

You are further to assure him, that they consider this speedy aid not only as a testimony of his Majesty's fidelity to the engagements he has entered into, but as an earnest of that protection, which they hope from his power and magnanimity, and as a bond of gratitude to the union, founded on mutual interest.

2. You shall, by the earliest opportunity, and on every necessary occasion, assure the King and his Ministers, that neither the Congress, nor any of the States they represent, have at all swerved from their determination to be independent in July, '76. But as the declaration was made in the face of the most powerful fleet and army, which could have been expected to operate against them, and without any the slightest assurance of foreign aid, so, although in a defenceless situation, and harrassed by the secret machinations and designs of intestine foes, they have, under the exertions of that force, during those bloody campaigns, persevered in their determination to be free. And that they have been inflexible in this determination notwithstanding the interruption of their commerce, the great sufferings they have experienced from the want of those things, which it procured, and the unexampled barbarity of their enemies.

3. You are to give the most pointed and positive assurances, that although the Congress are earnestly desirous of peace, as well to arrange their finances and recruit the exhausted state of their country, as to spare the further effusion of blood, yet they will faithfully perform their engagements, and afford every assistance in their power to prosecute the war for the great purposes of the alliance.

4. You shall endeavor to obtain the King's consent to expunge from the treaty of commerce the eleventh and twelfth articles, as inconsistent with that equality and reciprocity, which form the best security to perpetuate the whole.

5. You are to exert yourself to procure the consent of the Court of France, that all American seamen, who may be taken on board of British vessels, may, if they choose, be permitted to enter on board of American vessels. In return for which, you are authorized to stipulate, that all Frenchmen who may be taken on board of British vessels, by vessels belonging to the United States, shall be delivered up to persons appointed for that purpose by His Most Christian Majesty,

6. You are also to suggest to the Ministers of His Most Christian Majesty the advantage, that would result from entering on board the ships of these States British seamen, who may be made prisoners, thereby impairing the force of the enemy, and strengthening the hands of his ally.

7. You are also to suggest the fatal consequences, which would follow to the commerce of the common enemy, if, by confining the war to the European and Asiatic seas, the coasts of America could be so far freed from the British fleets, as to furnish a safe asylum to the frigates and privateers of the allied nations and their prizes.

8. You shall constantly inculcate the certainty of ruining the British fisheries on the Banks Newfoundland, and consequently the British Marine, by reducing Halifax and Quebec; since, by that means they would be exposed to alarm and plunder, and deprived of the necessary supplies formerly drawn from America. The plan proposed to Congress for compassing these objects is herewith transmitted for your more particular instructions.

9. You are to lay before the Court the deranged state of our finances, together with the causes thereof; and show the necessity of placing them on a more respectable footing, in order to prosecute the war with vigor on the part of America.

10. You are, by every means in your power, to promote a perfect harmony, concord, and good understanding, not only between the allied powers, but also between and among their subjects, that the connexion so favorably begun may be perpetuated.

11. You shall in all things take care not to make any engagements, or stipulations, on the part of America, without the consent of America previously obtained.

We pray God to further you with his goodness in the several objects hereby recommended; and that he will have you in his holy keeping.

Done at Philadelphia, the 26th day of October, 1778.

By the Congress.

H. LAURENS, *President.*

22. *B. Franklin to the President of Congress.*

European Powers have adopted the rule that Free Ships make Free Goods. Extract.

Paris, May 31st, 1780. Sir, Whatever may formerly have been the law of nations, all the neutral powers at the instance of Russia seem at present disposed to change it, and to enforce the rule that free ships shall make free goods, except in the case of contraband. Denmark, Sweden, and Holland, have already acceded to the proposition, and Portugal is expected to follow. France and Spain, in their answers, have also expressed their approbation of it.

With great respect, &c.

B. FRANKLIN.

23. *B. Franklin to the President of Congress.*

Interview with the Count de Vergennes, on communicating his instructions relative to the negotiations, and the letter of Congress to the King. Extract.

Passy, September 13th, 1781. Sir, I duly received the two letters your excellency did me the honor of writing to me, both dated the 19th of June, together with the letter addressed to the King and the three Commissioners, with the instructions relative to the negotiations for peace. I immediately went to Versailles and presented the letter, which was graciously received. I communicated also to

Count de Vergennes a copy of your instructions after having decyphered them. He read them while I was with him, and expressed his satisfaction with the unre-served confidence placed in his Court by the Congress, assuring me that they never would have cause to regret it, for that the King had the honor of the United States at heart, as well as their welfare and independence. Indeed this has already been manifested in the negociations relative to the Plenipotentiaries, and I have had so much experience of his Majesty's goodness to us, in the aid afforded us from time to time, and of the sincerity of this upright and able Minister, who never promised me anything which he did not punctually perform, that I cannot but think the confidence well and judiciously placed, and that it will have happy effects.

I have communicated to Mr Adams and to Mr Jay the purport of your des-patches. Mr Adams already had received the same; by the first safe conveyance I shall acquaint the Congress with the steps that have been taken in the negociation. At present I would only say, that the settling preliminaries meets with difficulty, and will probably take much time, partly from the remoteness of the mediators, so that any relaxation of our warlike preparations in expectation of a speedy peace, will be imprudent as it may be pernicious.

I wish, that a consul general may soon be appointed for this kingdom; it would ease me of abundance of troublesome business to which I am not equal, and which interferes with my own important functions.

I have the honor to be, &c.

B. FRANKLIN.

24. *B. Franklin to Robert R. Livingston.*

The Swedish Ambassador expresses a wish to treat with Dr. Franklin. Extract. Passy, June 25th, 1782. The Ambassador from Sweden to this Court applied to me lately to know, if I had powers that would authorise my making a treaty with his master in behalf of the United States.

Recollecting a general power, that was formerly given to me with the other Commissioners, I answered in the affirmative. He seemed much pleased, and said the King had directed him to ask the question, and charged him to tell me that he had so great esteem for me, that it would be a particular satisfaction to him to have such a transaction with me. I have perhaps some vanity in repeating this; but I think too, that it is right that Congress should know it, and judge if any use may be made of the reputation of a citizen for the public service. In case it should be thought fit to employ me in that business, it will be well to send a more particular power, and proper instructions. The Ambassador added, that it was a pleasure to him to think, and he hoped it would be remembered, that Sweden was the first power in Europe, which had voluntarily offered its friendship to the United States without being solicited. This affair should be talked of as little as possible till completed. I have the honor to be, &c. B. FRANKLIN.

25. *Extract from Franklin's Journal.*

Mr Grenville receives full Powers, Authorising him to Treat with any other Prince or State. Suggests a doubt whether Great Britain will allow America to be designated by the expression State. Extract.

Passy, June 15, 1782. Sir, Mr Grenville came, and acquainted me with the return of his courier, and that he had brought the full powers. That he, Mr Grenville, had been at Versailles, and left a copy with Count de Vergennes. That the

instrument was in the same terms with the former, except that after the power to treat with the King of France, or his Ministers, there was an addition of words, importing a power to treat with the Ministers of any other Prince or State whom it might concern. That Count de Vergennes had at first objected to these general words, as not being particular enough, but said he would lay it before the King, and communicate it to the Ministers of the belligerent powers, and that Mr Grenville should hear from him on Monday. Mr Grenville added, that he had further informed Count de Vergennes of his being now instructed to make a proposition as a basis for the intended treaty, viz. the peace of 1763.

That the proposition intended to be made under his first powers, not being then received, was now changed, and instead of proposing to allow the independence of America, on condition of England's being put into the situation she was in at the peace of 1763, he was now authorised to declare the Independence of America previous to the treaty, as a voluntary act, and to propose separately as a basis the treaty of 1763. This also Count de Vergennes undertook to lay before the King, and communicate to me.

Mr Grenville then said to me, he hoped all difficulties were now removed, and that we might proceed in the good work. I asked him if the enabling bill was passed? He said, no. It passed the Commons, and had been once read in the House of Lords, but was not yet completed. I remarked, that the usual time approached for the prorogation of Parliament, and possibly this business might be omitted. He said there was do danger of that, the Parliament would not rise this year till the middle of July; the India affairs had put back other business which must be done, and would require a prolongation of the session till that time. I then observed to him, that, though we Americans considered ourselves as a distinct independent power, or State, yet, as the British Government had always, hitherto, affected to consider us only as rebellious subjects, and as the enabling act was not yet passed, I did not think it could be fairly supposed, that his Court intended by the general words, any other Prince or State, to include a people whom they did not allow to be a State; and that, therefore, I doubted the sufficiency of his power as to treating with America, though it might be good as to Spain and Holland. He replied, that he himself had no doubt of the sufficiency of his power, and was willing to act upon it. I then desired to have a copy of the power, which he accordingly promised me.

B. FRANKLIN.

26. *Benjamin Franklin to Robert R. Livingston.*

History of the Negotiations—The principal Preliminaries between France and England agreed to. Extract.

Passy, December 5th, 1782. Sir, Much of the summer has been taken up in objecting against the powers given by Great Britain, and in removing those objections. The not using any expressions, that might imply an acknowledgment of our independence, seemed at first industriously to be avowed. But our refusing otherwise to treat, at length induced them to get over that difficulty, and then we came to the point of making propositions. Those made by Mr Jay and me before the arrival of the other gentlemen, you will find in the paper A, which was sent by the British Plenipotentiary to London for the King's consideration. After some weeks, an under secretary, Mr Strachey, arrived, with whom we had much

contestation about the boundaries and other articles which he proposed and we settled; some of which he carried to London, and returned with the propositions, some adopted, others omitted or altered, and new ones added, which you will see in paper B. We spent many days in disputing, and at length agreed on and signed the preliminaries, which you will see by this conveyance. The British Minister struggled hard for two points, that the favors granted to the royalists should be extended, and all our fishery contracted. We silenced them on the first, by threatening to produce an account of the mischief done by those people; and as to the second, when they told us they could not possibly agree to it as we requested it, and must refer it to the Ministry in London, we produced a new article to be referred at the same time, with a note of facts in support of it, which you have, C.— Apparently, it seemed, that to avoid the discussion of this, they suddenly changed their minds, dropped the design of recurring to London, and agreed to allow the fishery as demanded.

You will find in the preliminaries some inaccurate and ambiguous expressions, that want explanation, and which may be explained in the definitive treaty, and as the British Ministry excluded our proposition relating to commerce, and the American prohibition of that with England, may not be understood to cease, merely by our concluding a treaty of peace, perhaps we may then, if the Congress shall think fit to direct it, obtain some compensation for the injuries done us as a condition of our opening again the trade. Every one of the present British Ministry has, while in the Ministry, declared the war against us as unjust, and nothing is clearer in reason, than that those who injure others by an unjust war, should make full reparation. They have stipulated too, in these preliminaries, that in evacuating our towns, they shall carry off no plunder, which is a kind of acknowledgment that they ought not to have done it before.

The reason given us for dropping the article relating to commerce, was, that some statutes were in the way, which must be repealed before a treaty of that kind could be well formed, and that this was a matter to be considered in Parliament.

They wanted to bring their boundary down to the Ohio, and to settle their loyalists in the Illinois country. We did not choose such neighbors.

As soon as I received the commission and instructions for treating with Sweden, I waited on the Ambassador here, who told me he daily expected a courier on that subject. Yesterday he wrote a note to acquaint me, that he would call on me to-day, having something to communicate to me. Being obliged to go to Paris, I waited on him, when he showed me the full powers he had just received, and I showed him mine. We agreed to meet on Wednesday next, exchange copies, and proceed to business. His commission has some polite expressions in it, to wit: "that his Majesty thought it for the good of his subjects to enter into a treaty of amity and commerce with the United States of America, who had established their independence, so justly merited by their by their courage and constancy;" or to that effect. I imagine this treaty will be soon completed; if any difficulty should arise, I shall take the advice of my colleagues.

I am now entering on my 78th year; public business has engrossed 50 of them; I wish now to be, for the little time I have left, my own master. If I live to see this peace concluded, I shall beg leave to remind the Congress of their promise

then to dismiss me. I shall be happy to sing with old Simeon, "Now lettest thou thy servant depart in peace, for mine eyes have seen thy salvation!"

With great esteem, &c.

B. FRANKLIN.

27. *B. Franklin to Count de Vergennes.*

Informing him that a Passport has been received from England for the Washington. Extract.

Passy, December 15th, 1782. Sir, I have the honor to acquaint your Excellency, that our courier is to set out tomorrow at ten o'clock, with the despatches we send to Congress, by the Washington, Captain Barney, for which ship we have got a passport from the King of England. If you would make any use of this conveyance, the courier shall wait upon you tomorrow at Versailles, and receive your orders.

With respect, &c.

B. FRANKLIN.

Copy of a Passport given to the ship Washington, to carry over the Preliminary Articles:

George the Third, by the Grace of God, King of Great Britain, France, and Ireland, Defender of the Faith, and so forth. To all Admirals, Vice Admirals, Captains, Commanders of our ships of war, or privateers, Governors of our forts and castles, customhouse comptrollers, searchers, &c. to all and singular our officers, and military and loving subjects whom it may concern, greeting: Our will and pleasure is, and we do hereby strictly charge and require you, as we do likewise pray and desire the officers and ministers of all Princes and States, in amity with us, to permit and suffer the vessel called the Washington, commanded by Mr Joshua Barney, belonging to the United States of North America, to sail from either of the ports of France, to any port or place in North America, without any let, hinderance, or molestation whatsoever; but, on the contrary, affording the said vessel all such aid and assistance as may be necessary.

Given at our Court of St. James, the tenth day of December, 1782, in the 23d year of our reign. By his Majesty's command:

T. TOWNSHEND.

28. *Count de Vergennes to B. Franklin.*

Expresses his astonishment at the despatching of the Washington. Complains that the Preliminaries have been concluded without any communication with France.

Versailles, December 15th, 1782. Sir, I cannot but be surprised, Sir, that after the explanation I have had with you, and the promise you gave, that you would not press the application for an English passport for the sailing of the packet Washington, that you now inform me, you have received the passport, and that at ten o'clock tomorrow morning your courier will set out to carry your despatches. I am at a loss, Sir, to explain your conduct and that of your colleagues on this occasion. You have concluded your preliminary articles without any communication between us, although the instructions from Congress prescribes, that nothing shall be done without the participation of the King. You are about to hold out a certain hope of peace to America, without even informing yourself on the state of the negotiation on our part.

You are wise and discreet, Sir; you perfectly understand what is due to propriety; you have all your life performed your duties. I pray you to consider, how you propose to fulfill those, which are due to the King? I am not desirous of enlarging these reflections, I commit them to your own integrity. When you shall be pleased to relieve my uncertainty, I will entreat the King to enable me to answer your demands. I have the honor to be, &c.

DE VERGENNES.

29. *B. Franklin to Count de Vergennes.*

Causes of the sailing of the Washington.—No peace will take place between England and America without the concurrence of France.

Passy, December 17th, 1782. Sir, I received the letter your Excellency did me the honor of writing to me on the 15th instant. The proposal of having a pass-

port from England was agreed to by me the more willingly, as I at that time had hopes of obtaining some money to send in the Washington, and the passport would have made its transportation safer, with that of our despatches, and of yours also, if you had thought fit to make use of the occasion. Your Excellency objected, as I understood it, that the English Ministers by their letters sent in the same ship, might convey inconvenient expectations into America. It was therefore, I proposed not to press for the passport, till your preliminaries were also agreed to.— They have sent the passport without being pressed to do it, and they have sent no letters to go under it, and ours will prevent the inconvenience apprehended. In a subsequent conversation, your Excellency mentioned your intention of sending some of the King's cutters, whence I imagined, that detaining the Washington was no longer necessary; and it was certainly incumbent on us to give Congress as early an account as possible of our proceedings, who will think it extremely strange to hear of them by other means, without a line from us. I acquainted your excellency, however, with our intention of despatching that ship, supposing you might possibly have something to send by her.

Nothing has been agreed in the preliminaries contrary to the interests of France; and no peace is to take place between us and England, till you have concluded yours. Your observation is however, apparently just, that in not consulting you before they were signed, we have been guilty of neglecting a point of *bienseance*. But as this was not done from want of respect for the king, whom we all love and honor, we hope it will be excused, and that the great work, which has hitherto been so happily conducted, is so nearly brought to perfection, and is so glorious to his reign, will not be ruined by a single indiscretion of ours. And certainly the whole edifice sinks to the ground immediately, if you refuse on that account to give us any further assistance.

We have not yet despatched the ship, and I beg leave to wait upon you on Friday for your answer.

It is not possible for any one to be more sensible than I am, of what I and every American owe to the king, for the many and great benefits and favors he has bestowed upon us. All my letters to America are proofs of this; all tending to make the same impressions on the minds of my countrymen, that I felt in my own. And I believe, that no Prince was ever more beloved and respected by his own subjects, than the King is by the people of the United States.

The English, I just now learn, flatter themselves that they have already divided us. I hope this little misunderstanding will therefore be kept a secret, and that they will find themselves totally mistaken. With great respect, &c. B. FRANKLIN.

30. Robert R. Livingston to the Commissioners.

General Satisfaction with the Preliminary Articles.—Remarks on the 5th Article.—Regrets the signing of the Treaty without communication with the French Court, and concerning of the Separate Article.

Philadelphia, March 25th, 1783. Gentlemen, I am now to acknowledge the favor of your joint letter by the Washington, together with a copy of the Preliminary Articles; both were laid before Congress. The Articles have met with their warmest approbation, and have been generally seen by the people in the most favorable point of view.

The steadiness manifested in not treating without an express acknowledgment of your independence previous to a treaty is approved, and it is not doubted but it accelerated that declaration. The boundaries are as extensive as we have a right to expect; and we have nothing to complain of with respect to the fisheries. My sentiments as to English debts you have in a former letter. No honest man could wish to withhold them. A little forbearance in British creditors, till people have recovered in part from the losses sustained by the war, will be necessary to render this Article palatable, and indeed to secure more effectually the debt. The Article relative to the loyalists is not quite so accurately expressed as I could wish it to have been. What, for instance, is intended by real British subjects? It is clear to me that it will operate nothing in their favor in any State in the Union, but as you made no secret of this to the British Commissioners, they will have nothing to charge you with; and indeed the whole clause seems rather to have been inserted to appease the clamor of these poor wretches, than to satisfy their wants. Britain would have discovered more candor and magnanimity in paying to them three months' expense of the war establishment, which would have been an ample compensation for all their losses, and left no germ of dissatisfaction to bud and bloom and ripen into discontents here. Another mad Administration may think the noncompliance of the Legislatures with the recommendations of Congress on this subject, a sufficient cause for giving themselves and us new troubles. You however were perfectly right in agreeing to the Article; the folly was theirs, who did not either insist upon more, or give up this.

But, Gentlemen, though the issue of your treaty has been successful, though I am satisfied that we are much indebted to your firmness and perseverance, to your accurate knowledge of our situation, and of our wants for this success, yet I feel no little pain at the distrust manifested in the management of it, particularly in signing the treaty without communicating it to the Court of Versailles till after the signature, and in concealing the Separate Article from it even when signed. I have examined with the most minute attention all the reasons assigned in your several letters to justify these suspicions. I confess they do not appear to strike me so forcibly as they have done you; and it gives me pain, that the character for candor and fidelity to its engagements, which should always characterise a great people, should have been impeached thereby. The concealment was in my opinion absolutely unnecessary; for had the Court of France disapproved the terms you had made, after they had been agreed upon, they could not have acted so absurdly as to counteract you at that late day; and thereby put themselves in the power of an enemy, who would certainly betray them, and perhaps justify you in making terms for yourselves.

The Secret Article is no otherwise important, than as it carries in it the seeds of enmity to the Court of Spain, and shows a marked preference for an open enemy. It would in my opinion, have been much better to have fixed on the same boundaries for West Florida, into whatever hands it fell, without showing any preference, or rendering concealment necessary; since all the arguments in favor of the cession to England would then have operated with equal force, and nothing have been lost by it; for there can be no doubt, that whether Florida shall at the close of the war be ceded to England or to Spain, it will be ceded as it was held

by Britain. The Separate Article is not, I suppose, by this time a secret in Europe; it can hardly be considered as such in America. The Treaty was sent out to the General with this Article annexed by Sir Guy Carleton, without the smallest injunction of secrecy; so that I dare say it has been pretty generally read at head quarters. Congress still conceal it here. I feel for the embarrassment explanations on this subject must subject you to, when this secret is known to your allies. I have the honor to be, Gentlemen, &c. ROBERT R. LIVINGSTON.

31. *Count de Vergennes to B. Franklin.*

Regret at the Departure of Franklin.

Versailles, May 22d, 1785. Sir, I have learnt with much concern of your retiring, and of your approaching departure for America. You cannot doubt but that the regrets, which you will leave, will be proportionate to the consideration you so justly enjoy.

I can assure you, Sir, that the esteem the King entertains for you, does not leave you anything to wish, and that his Majesty will learn with real satisfaction, that your fellow citizens have rewarded, in a manner worthy of you, the important services that you have rendered them.

I beg, Sir, that you will preserve for me a share in your remembrance, and never doubt the sincerity of the interest I take in your happiness. It is founded on the sentiments of attachment of which I have assured you, and with which I have the honor to be, &c. DE VERGENNES.

32. *John Adams to the President of Congress.*

Duties of Diplomatic Agents and Consuls. Extract.

Paris, June 29th, 1780. Sir, The consuls, as well as the foreign Ministers, should all be instructed to transmit to Congress, written accounts of the civil and military constitutions of the places where they are, as well as all the advantages for commerce with the whole world especially with the United States. These letters preserved, will be a repository of political and commercial knowledge, that in future times may be a rich treasure to the United States. To these consuls, the commercial concerns of the public should be committed, and the vessels of war.

I have the honor to be, &c.

JOHN ADAMS.

33. *John Adams to the Count de Vergennes.*

Necessity of a Public Minister at Vienna. Extract.

Paris, July 19, 1781.—It is impossible that there should be a treaty at Vienna between Great Britain and the people of America, whether they are called United States or American Colonies, unless both appear there by representatives, who must be authorised by commissions or full powers, which must be mutually exchanged, and consequently admitted to be, what upon the face of them they purport to be. The commission from the United States for making peace, which has been in Europe almost two years, is that of a Minister Plenipotentiary, and it authorises him to treat only with Ministers vested with equal powers. If he were to appear at Vienna, he would certainly assume the title and character of a Minister Plenipotentiary, and could enter into no treaty or conference with any Minister from Great Britain, until they had mutually exchanged authentic copies of their full powers.

This it is true, would be an implied acknowledgement of his character and title, and of those of the United States too; but such an acknowledgment is indispensable because without it there can be no treaty all. In consequence he would expect to enjoy all the prerogatives of that character, and the moment they should be denied him, he must quit the Congress, let the consequences be what they might.

I have the honor to be, &c.

JOHN ADAMS.

34. *John Adams to Robert R. Livingston.*

Is introduced to the Foreign Ministers at a dinner made in Honor of the United States by the French Ambassador.—Receives visits in a private character from the Spanish Minister.

The Hague, April 23d, 1782. Sir, I ought not to omit to inform Congress, that on the 23d of April, the French Ambassador made an entertainment for the whole Corps Diplomatique, in honor of the United States, at which he introduced their Minister to all the foreign Ministers at this Court.

There is nothing, I suppose, in the whole voluminous ceremonial, nor in all the idle farce of etiquette, which should hinder a Minister from making a good dinner in good company, and therefore I believe they were all present, and I assure you I was myself as happy as I should have been, if I had been publicly acknowledged a Minister by every one of them; and the Duc de la Vauguyon more than compensated for all the stiffness of some others, by paying more attention to the new brother than to all the old fraternity.

Etiquette, when it becomes too glaring by affectation, imposes no longer either upon the populace or upon the courtiers, but becomes ridiculous to all. This will soon be the case everywhere with respect to American Ministers. To see a Minister of such a State as and assume a distant mysterious air towards a Minister of the United States, because his Court has not yet acknowledged their independence, when his nation is not half equal to America in any one attribute of sovereignty, is a spectacle of ridicule to any man who sees it.

I have had the honor of making and receiving visits in a private character from the Spanish Minister here, whose behavior has been polite enough. He was pleased to make me some very high compliments upon our success here, which he considers as the most important and decisive stroke which could have been struck in Europe. I have the honor to be, &c.

JOHN ADAMS.

35. *John Adams to Robert R. Livingston.*

The treaty of Commerce, and the Convention concerning Recaptures executed.—Remarks on some of the clauses, and some rejected articles. Extract.

The Hague, October 8th, 1782. Sir, at twelve o'clock to-day I proceeded, according to appointment, to the State-House, where I was received with the usual formalities, at the head of the stairs, by M. Van Santheuve!, a Deputy from the Province of Holland, and M. Van Linden, the first noble of Zealand, and a Deputy from that Province, and by them conducted into the Chamber of Business, (*chambre de besogne*) an apartment belonging to the Truce Chamber, (*chambre de treve*) where were executed the treaty of commerce and the convention concerning recaptures, after an exchange of full powers.

Several propositions were made to me, which I could not agree to, and several were made on my part, which could not be admitted by the States. The final result contained in the treaty, is as near the spirit of my instructions as I could ob-

tain, and I think it is nothing materially variant from them. The Lords, the Deputies, proposed to me to make the convention a part of the treaty. My answer was, that I thought the convention, which is nearly conformable with that lately made with France, would be advantageous on both sides; but as I had no special instructions concerning it, and as Congress might have objections, that I could not foresee, it would be more agreeable to have the convention separate; so that Congress, if they should find any difficulty, might ratify the treaty without it. This was accordingly agreed to. It seemed at first to be insisted on, that we should be confined to the Dutch ports in Europe, but my friend, M. Van Berkel, and the merchants of Amsterdam, came in aid of me, in convincing all, that it was their interest to treat us upon the footing *gentis amicissimæ*, in all the parts of the world.

Upon the whole, I think the treaty is conformable to the principles of perfect reciprocity, and contains nothing, that can possibly be hurtful to America, or offensive to our allies, or to any other nation, except Great Britain, to whom it is indeed, without a speedy peace, a mortal blow.

The rights of France and Spain are sufficiently secured by the twenty-second article; although it is not in the very words of the project, transmitted me by Congress, it is the same in substance and effect. The Duc de la Vauguyon was very well contented with it, and the States were so jealous of unforeseen consequences from the words of the article as sent me by Congress, and first proposed by me, that I saw it would delay the conclusion without end. After several conferences, and many proposals, we finally agreed upon the article as it stands, to the satisfaction of all parties.

The clause reserving to the Dutch their rights in the East and West Indies, is unnecessary, and I was averse to it, as implying a jealousy of us. But as it implies too a compliment to our power and importance, was much insisted on, and amounted to no more than we should have been bound to without it, I withdrew my objection.

The proviso of conforming to the laws of the country, respecting the external show of public worship, I wished to have excluded; because I am an enemy to every restraint in a matter so delicate and sacred as the liberty of conscience; but the laws here do not permit Roman Catholics to have steeples to their churches, and these laws could not be altered. I shall be impatient to receive the ratification of Congress, which I hope may be transmitted within the time limited.*

I have the honor to be, &c.

JOHN ADAMS.

John Adams to Robert R. Livingston.

Preliminary Treaty.—Desires to resign his Commission. Extract.

Paris, December 4th, 1782. Sir, it is with much pleasure, that I transmit you the preliminary treaty between the King of Great Britain and the United States of America. The Mississippi, the western lands, Sagadahoc, and the fisheries, are secured as well as we could, and I hope what is done for the refugees will be pardoned.

As the objects, for which I ever consented to leave my family and country, are thus far accomplished, I now beg leave to resign all my employments in Europe. They are soon enumerated; the first, is my commission to borrow money in Holland, and the second, is my credence to their High Mightinesses. These two should

* See page 134, Vol. 1. for this treaty at large.

be filled up immediately, and as Mr Laurens was originally designated to that country, and my mission there was merely owing to his own misfortune, I hope that Congress will send him a full power for that court.

The commission for peace I hope will be fully executed before this reaches you. But, if it should not, as the terms are fixed, I should not choose to stay in Europe, merely for the honor of affixing my signature to the definitive treaty, and I see no necessity of filling up my place; but if Congress should think otherwise, I hope they will think Mr Dana the best entitled to it.

With great esteem, I have the honor to be, &c.

JOHN ADAMS.

37. *John Adams to Robert R. Livingston.*

Conversation with the Sardinian Minister, who advises the sending of a Circular by Congress to the European powers, giving an account of the Declaration of Independence, of the acknowledgment by other powers, &c.

The Hague, July 31st, 1783. Sir, The last evening at Court, in the house in the Grove, where all the foreign Ministers supped, the Count Montagnini de Mirabel, the Minister Plenipotentiary from the King of Sardinia, took an opportunity to enter largely into conversation with me. The Count said that his advice to Congress would be to write a circular letter to every power in Europe, as soon as the definitive treaty should be signed and transmit with it a printed copy of a treaty. In the letter, Congress should announce, that on the 4th of July, 1776, the United States had declared themselves a sovereign State, under the style and title of the United States of America; that France, on the 6th of February, 1778, had acknowledged them; that the States-General had done the same on the 19th of April, 1782; that Great Britain, on the 30th of November, 1782, had signed with them a treaty of peace, in which she had fully acknowledged their sovereignty; that Sweden had entered into a treaty with them, on the 5th of February, 1783; and that Great Britain had concluded the definitive treaty under the mediation of the two Empires, if that should be the fact, &c. Such a notification to all the other powers would be a regular procedure, a piece of politeness, which would be very well received, and the letter would be respectfully answered by every power in the world, and these written answers would be explicit, and undeniable acknowledgements of our sovereignty.

It might have been proper to make this communication in form, immediately after the declaration of independence; it might have been more proper to do it after the signature of the provisional treaty; but that it was expected it would be done after the definitive treaty. That these circular letters might be transmitted to your Ministers for peace, or such of them as may remain, or to any of your ministers in Europe, to be by them delivered to the Ministers at the Court where they are, or transmitted any other way. That Congress must be very exact in the etiquette of titles, as this was indispensable, and letters could not be answered nor received without it. That we might have these titles at the Court de Vergennes' office with precision, &c.

I have the honor to be, &c.

JOHN ADAMS.

38. *Ralph Izard to the Committee of Foreign Affairs.*

Friendly disposition of the Tuscan Minister in France; advises a delay of Mr Izard's visit to Italy. Extract.

Paris, December 18th, 1777. Gentlemen, Since my letter of the 6th of Oct. I have cultivated an intimacy with the Tuscan Minister, resident at this Court.—

He is a man of honor, of considerable abilities, and extremely friendly to our country. I proposed to him that I should immediately set out for Italy, and desired his opinion and advice. He dissuaded me from executing my intentions for the present, assured me of the good disposition of the Grand Duke towards us, and promised me to use his utmost endeavors to promote our interest with him. He thought, that my presence at this time might produce some embarrassment at this Court, which would not long be the case. He is since gone to Florence, and I am convinced, that no services that he can render the States will be withheld.

This gentleman is a great favorite, and I am well assured is more in the confidence of the Grand Duke than any of his Ministers. I flatter myself, therefore, that I have acted according to the wishes of Congress, in conforming to his advice.
I am, &c.

RALPH IZARD.

39. *Ralph Izard to Henry Laurens.*

Titles of American Ministers in Europe. Extract.

Paris, April 11, 1778. The Commissioners at this Court have not yet been received into the *Corps Diplomatique*, because they have not had proper letters of credence from Congress.

When those letters are sent to them, you will be so good as to let them be sent to me and also to Mr William Lee. The title of Commissioner is not at present used as formerly, at the Courts of Europe. I will venture to give you my opinion privately on this subject, which is, that the representatives from the States of America at the Courts of France and Spain should be ambassadors, and, at the others, Ministers Plenipotentiary. The last title is in general use: the persons possessed of it take rank below envoys, and therefore I would prefer it because it will probably prevent all disputes. I mention this solely to yourself, and you will either make use of it or not, as you think proper. I have the honor to be, &c. R. IZARD.

40. *John Jay's Instructions at the Court of Madrid.*

Directing him to insist on the Navigation of the Mississippi.—The Boundary.—Florida.

In Congress, October 4th, 1780. On the report of a Committee to whom were referred certain instructions to the delegates of Virginia by their constituents, and a letter of 26th of May, from the honorable John Jay, Congress unanimously agreed to the following instructions to the honorable John Jay, Minister Plenipotentiary of the United States of America, at the Court of Madrid:

That the said Minister adhere to his former instructions, respecting the right of the United States of America to the free navigation of the river Mississippi into and from the sea; which right, if an express acknowledgment of it cannot be obtained from Spain, is not by any stipulation on the part of America, to be relinquished. To render the treaty to be concluded between the two nations permanent, nothing can more effectually contribute, than a proper attention, not only to the present, but the future reciprocal interests of the contracting powers.

The river Mississippi being the boundary of several States in the Union, and their citizens, while connected with Great Britain, and since the revolution, having been accustomed to the free use thereof, in common with the subjects of Spain, and no instance of complaint or dispute having resulted from it, there is no reason

to fear, that the future mutual use of the river by the subjects of the two nations, actuated by friendly dispositions, will occasion any interruption of that harmony which it is the desire of America, as well as of Spain, should be perpetual. That if the unlimited freedom of the navigation of the river Mississippi, with a free port or ports below the 31st degree of north latitude, accessible to merchant ships, cannot be obtained from Spain, the said Minister in that case be at liberty to enter into such equitable regulations as may appear a necessary security against contraband; provided the right of the United States to the free navigation of the river be not relinquished, and a free port or ports as above described be stipulated to them.

That with respect to the boundary alluded to in his letter of the 26th of May last, the said Minister be, and hereby is instructed, to adhere strictly to the boundaries of the United States as already fixed by Congress. Spain having by the treaty of Paris, ceded to Great Britain all the country to the northeastward of the Mississippi, the people inhabiting these States, while connected with Great Britain, and also since the revolution, have settled themselves at divers places to the westward near the Mississippi, are friendly to the revolution, and being citizens of these United States, and subject to the laws of those to which they respectively belong, Congress cannot assign them over as subjects to any other power.

That the said Minister be further informed, that in case Spain shall eventually be in possession of East and West Florida, at the termination of the war, it is of the greatest importance to these United States to have the use of the waters running out of Georgia through West Florida into the Bay of Mexico, for the purpose of navigation; and that he be instructed to endeavor to obtain the same, subject to such regulations as may be agreed on between the contracting parties; and that as a compensation for this, he be and hereby is empowered to guaranty the possession of the said Floridas to the crown of Spain.

41. *Mr Jay to Mr Livingston.*

Interview with the Count de Florida Blanca; the Count excuses the delays on account of the sickness of M. del Campo, and declines entering on any diplomatic business—M. del Campo declines the conference, under pretence of ill health; and afterwards on the plea of want of instructions. Extract.

Madrid, Nov 21, 1781. As the Minister could not see me on Saturday evening, it was not till Monday evening the 10th of December that I had an opportunity to converse with him.

He began the conversation by observing, that I had been very unfortunate, and had much reason to complain of delays, but that they had been unavoidable. That M. del Campo had been appointed near three months ago to treat and confer with me; that shortly after the Court removed from St Ildefonso that gentleman's health began to decline; and that his indisposition had hitherto prevented his attending to that or any other business, but that he hoped by the time the Court should return from Aranjues (to which the King was then about to make a little excursion) he would be able to proceed on it, and that he should have the necessary instructions for the purpose.

I told the Count, that these delays had given me great concern, and that I was very solicitous to be enabled to give Congress some positive and explicit information, on the business alluded to. He replied, that I must now confer on

those subjects with M. Del Campo, for that for his part his time and attention were so constantly engaged by other matters, that he could not possibly attend to this, especially while at Madrid, when he always enjoyed much less leisure than at the Sitios. He then proceeded to congratulate me on our late success in Virginia; he assured me, that the King rejoiced sincerely in those events, and that he himself was happy to see our affairs assume so promising an aspect. I was about to descend to particulars, and to remind the Count of the various memorials, &c. which still remain to be considered and despatched, when he mentioned he was engaged for the rest of the evening in pressing affairs. This intimation put an end to the conference.

On the 27th of December, I again waited on him for the same purpose. He told me it was very uncertain when our conferences could commence, and that he must first converse with the Count on the subject. I asked him whether he had not received his instructions. He answered, he had not, for they were not as yet completed, nor indeed as he believed as yet begun.

In this state, things remained during the whole time the Court continued at Madrid. I am, &c.

JOHN JAY.

42. *William Carmichael to Robert R. Livingston.*

His Presentation at the court of Madrid. Extract.

St. Ildefonso, August 30th, 1783. Sir, Having waited on the Count de Florida Blanca agreeably to his request, on my entry he took me by the hand and told me, that he hoped I would now be satisfied, for that on conferring with the King, his Majesty had been pleased to fix a day for my presentation; that no one felt more sensibly than himself the happy conclusion of this affair, as well on account of his desire to show every possible respect to the United States, as from his esteem for me. That the King, contrary to his expectations, had consented to change the etiquette with respect to me on this subject, as "an extraordinary act of royal good will," and that he hoped, that his conduct on this occasion would convince Congress of his Majesty's intentions to cultivate in a particular manner their amity. I expressed in reply, the sense which I knew my constituents would have of this proof of the king's amicable disposition, and of my gratitude to his excellency for the obliging interest which he took in what regarded me personally, assuring him that I would take the earliest opportunity of transmitting to Congress this additional proof of his Majesty's desire to cultivate their friendship, and of his excellency's manner of fulfilling his Sovereign's intentions. I then asked him on what day the King chose to receive me? He answered, the day after tomorrow, (the 23d instant.) I expressed some concern that the Ambassador of France, then at Madrid would not return before the time appointed for my reception. He replied, that the King having named the day, no alteration could take place. To this I was obliged to acquiesce. His Excellency then made me many professions of personal regard, which it is unnecessary to repeat, and which, perhaps, I should not even hint at, if the French Ambassador, the Marquis de Lafayette and others had not been witnesses on former occasions to similar assurances. I proceeded to mention to his Excellency the different objects on which I had heretofore addressed him, and prayed him to give me an opportunity, at the same time that I informed Con-

gress of my presentation, to advise them also of the happy termination of them. He begged me to pass him notes again, on these points, and assured me, that I should receive such answers as would be agreeable and satisfactory to the States. He continued to speak to me, in an open and friendly manner, of the obstacles which a well intentioned Minister had to encounter, in the execution of his measures in this country.

The same evening I informed the Ambassador of France by letter, that the King had consented to my being presented, a circumstance on which he had always entertained doubts, although he has ever done every thing in his power, that could be expected from his public and private character, to contribute to the success of our negociation. Perhaps some expressions on the part of Congress, testifying their sense of the zeal which this nobleman has manifested to further their interests, may be ultimately productive of good effects at the Court of Versailles, if not here.

On the day appointed for my presentation, I waited on his Excellency, the Count de Florida Blanca, and from his house, accompanied by his servant whom he had the politeness to send with my own, I paid my visits to the principal officers and ladies of the palace. This ceremony finished, I went to the King's apartments, where the Minister appointed me to meet him. When his Majesty arose from table, his Excellency presented me as Charge d'Affaires of the United States. As I had been informed, that the King did not like long harangues, I contented myself with expressing to his Majesty my happiness in being the first of my countrymen who had the good fortune to assure him of their desire to cultivate his amity. He answered me in a gracious manner, and with a smiling countenance, saying, that he hoped I should have frequent occasions of making him the same assurances.

He then passed into the audience chamber to the Ambassadors and Ministers, where, as several have informed me, he was pleased to speak favorably of me.

The royal family dining at the same hour and separately, the same etiquette being observed, viz. the presentation after dinner, it required some days to finish this business; the Count de Florida Blanca accompanying me more than three quarters of an hour each day, with a politeness and good nature rarely found in men who have so many important occupations in their hands. The Prince of Asturias spoke of me during the dinner as of a person he had long known, and when I was presented he told me so. The Princess, who was present, spoke to me six or seven minutes in French and Spanish, and among other things said to me, that I ought to like Spain, because she had been told, that I was much liked by the Spaniards. I replied, that the only title I had to their esteem was my well known regard for the nation. The other branches of the royal family received me equally well.

The ceremonial of my presentation being finished, I waited on his Excellency, the Count de Florida Blanca, to thank him for his obliging attentions in the course of it, and took that opportunity of insinuating to him the propriety of his Catholic Majesty's immediately naming a Minister to the United States. I had touched on this subject formerly. He told me that he would speak to his Majesty, and inform me of his intentions. I have the honor to be, &c.

W. CARMICHAEL.

43. *John Laurens to the President of Congress.*

Confinement of Henry Laurens in the Tower. Extract.

Philadelphia, September 6th, 1781. Sir, in consequence of the desire of the committee of conference on the subject of my mission to France, I do myself the honor to communicate to Congress all the information I am possessed of relative to the present situation of Henry Laurens, [then close prisoner in the Tower of London] and the prospect of his enlargement or exchange. It appears from the letter of a gentleman in London, who had access to him under certain restrictions, that though the rigor of his confinement was in some degree abated, he still labored under several interdictions and restraints, as unprecedented as illiberal, and that the British Court still affected to consider him as amenable to their municipal laws, and maintained the idea of a future trial.

After I had finished the general business with which Congress had charged me, I consulted the several Ministers at the Court of France upon the proper measures to be taken, when such a flagrant violation of the laws of nations had been offered in the person of a public Minister, and solicited their intervention and assistance. They all declared, that however anxious they were to restore to his country a citizen, so valuable by his services, they had not the least hope, that any benefit would be derived from their interference, the British Court being as little disposed to gratify the Court of France, as they were to gratify the United States; and the unanimous opinion of these gentlemen further was, that nothing would determine the British to pursue a reasonable conduct in the present case, but the most exact retaliation on the part of Congress. For this purpose they advised, that one or more British prisoners of sufficient note and importance to cause a sensation by their own complaints, or those of their friends, to their Court, should be held as security for the safety of Mr Laurens, and that their mode of confinement and treatment should invariably follow the rule of the conduct of the British government towards him.

I have the honor to be, &c.

JOHN LAURENS.

44. *Dumas to the President of Congress.*

Past Services.

The Hague, July 25th, 1780. Sir, The 21st of March last I had the honor to write your Excellency a long letter on my own concerns, of which I annex here an extract. I add here, that when I received the first commission of the committee on the part of Congress, dated in December, 1775, in which they honored me with their orders and credentials, I did not solicit to be employed: I did not even think of it. But chosen and named, by this respectable body, in a manner as unexpected as it was definite and authentic, to serve essentially the United States my ardent thoughts and life were consecrated with zeal to the cause of the United States. Persuaded that it was the cause of humanity, of liberty, and of virtue, I have sacrificed every thing to this noble service, during nearly five years, with all possible zeal and fidelity. The Congress also testified to me soon after, that they were well satisfied with my services. I have corresponded assiduously since that time with the committee of Foreign Affairs, with the Plenipotentiaries of the United States at Paris, and with a number of other servants of America. I have raised up, cemented and nourished in Holland a considerable party in their favor, whereby I have

drawn upon myself the hatred of a party more powerful, which wishes to see me perish, and which has already done me all the wrong and all the mischief of which it was capable. I have participated in the adverse fortune of America, in the just confidence that the United States and their Congress will have my interest at heart as I have constantly and successfully had theirs, and as their magnanimity, their dignity, and their honor require in the eyes of the European public.

I have yet fully this confidence; and it is this which caused me to solicit, more than a year since, in several of my letters to the Committee of Foreign Affairs, a formal confirmation of my agency on the part of Congress, for my safety and quiet. I beg, Sir, that you will second my request and obtain for me a resolution as favorable as my demand is just.

I know that some Americans, whom I honor in other respects, have entertained and propagated the idea, that a commission of the honorable Committee of Foreign Affairs was not so valid as one of Congress. One of them said so to me. I will not, Sir, give myself up to an idea so injurious, as to think, that Congress would refuse to ratify what their Committee has done, and the engagements it has made, but this body is not always composed of the same persons; it has many other affairs; it may forget me, and I may be cruelly supplanted, abandoned, and consequently at the age of sixty years, ruined with my family, without resources and without means. I put, then, my cause into the hands of your Excellency, to endeavor to obtain for me, as speedily as possible, the satisfaction I desire, and to send me the commission I solicit. The service of the United States requires it, and this will not interfere with the powers of Minister Plenipotentiary, who may be sent here; on the contrary, I shall be useful to him, if God spares my life.

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

DUMAS.

45. *Robert R. Livingston to C. W. F. Dumas.*

Impropriety of a foreign Envoy engaging in the parties of the country where he resides. Ex.

Without date. Sir, I take the liberty to remind you, that your public character [of American political Agent] puts you in a delicate situation with respect to them [the Dutch Patriots], that as a foreign nation, whatever we may wish, we have no right to express those wishes, or in any way to interfere in the internal disputes of our allies; that our conduct should show, that we were the enemy of no party, except so far as their measures were inimical to us. You will not, Sir, consider this as a reproof, for I have not the smallest reason to believe that you have not made these reflections yourself, and acted conformably thereto. On the contrary, I rather conclude, that you have; from the long habit which you have been of conducting public affairs which require prudence and delicacy. I only mention it, therefore, as a caution which will not probably, but may possibly be necessary to one who is animated by the spirit of freedom, and may as a patriot be hurried beyond the limits we should prescribe to our ministers.

I am &c.

R. R. LIVINGSTON.

46. *From Thomas Jefferson to John Jay.*

Recommends M. Dumas for a Diplomatic Situation. Extract.

Paris, May 22, 1786. Sir, The duty has been imposed on me of making the following communication to Congress.

It is necessary for me previously to observe, that though the government of the United Netherlands have both an ordinary and extraordinary Ambassador here, yet

the patriotic party now decisively possessed of all the powers of government have sent hither a Rhingrave de Salm, as possessing plenary confidence, to treat with this Court on some matters not yet made known to the public. His character and credit accordingly are so well known here, that passing by the regular ambassadors, they are actually in negotiation with him.

He took occasion to speak with me to-day, on the subject of Mr. Dumas: after saying much in his favor, he assured me that Congress could not oblige the patriotic party more, as by naming Dumas to their diplomatic appointment at the Hague; and further that should they have any thing interesting to do there, there was no other man, who could do it so effectually as Mr. Dumas.

I wished to avoid flattering his expectations and there fore mentioned to him the resolution of Congress, confining their diplomatic appointments to the citizens of the United States.

He seemed to admit they could not expect him to be made Minister Plenipotentiary, but asked if it would not be possible to give him the character of Resident.

I told him we were in the usage of appointing only one character inferior to that of Minister Plenipotentiary which was that of Charge d'Affairs: that I was far from presuming to say, that could be obtained in the present case; but that one other difficulty occurred to me in that moment. I observed that they had a Minister Plenipotentiary with Congress; and that Congress naming for their Court only a Charge d'Affaires might perhaps be considered disrespectful, and might occasion the recall of their Minister. He assured me it would not; nay, that it should not. We are, continued he, but a party, and therefore cannot make a formal declaration on this subject, but we know how far we can undertake; and if you please, the members of our party shall go and make declaration privately, before the French ambassador at our Court, that nothing amiss shall be conceived of it, and that our Minister shall not be affected by it. I told him this would not be desired. He asked me if I thought Count de Vergennes writing a second letter on this subject would be of service?

I told him I could not suppose a repetition of his application could be material.

My object in avoiding a second letter from the Count de Vergennes, as well as the declaration before the French ambassador, was, that embarrassments might not be multiplied if Congress should not think proper to comply with their requests. He concluded by desiring I would urge this matter to Congress.

It seems certain that Mr. Dumas has rendered himself very useful to the Governments of both France and Holland, in the late negotiations. It was natural, therefore, that these Governments should provide for him.

I know not how it has happened that we are resorted to on the occasion, unless, perhaps, it is the particular wish of Mr. Dumas to receive this species of reward.

Be this as it may, the reigning party in the United Netherlands, and the Government of this country, commit themselves on this application; and it becomes a matter of calculation, in which their favor, and the occasions we may have for it, are to be weighed against the sacrifices the present applications call for.

To pronounce on this, would be beyond my province, which is merely that of being the channel of communication; this being desired in form, I supposed it my duty to comply with. I have the honor to be, &c.

T. JEFFERSON.

47. *Francis Dana to Robert R. Livingston.*

Interview with Count Ostermann, who declares that the Empress could not receive a Minister from the United States till the conclusion of the definitive treaty between the belligerents, &c.

St. Petersburg, April 25th, 1783. Sir, In consequence of my second letter to the Vice Chancellor, of the 21st instant, he sent me a verbal message with his compliments on the 23d in the morning, and desired to see me at four o'clock in the afternoon. I waited upon him accordingly, and had a conference with him upon the subject of my mission. He began by saying that he had received the letters I had done him the honor to write him; that her Majesty had been invited by the Courts of Versailles, Madrid, and London, to mediate in conjunction with the Emperor, at the conclusion of the definitive treaty of peace between them; that till those affairs were arranged, and the definitive treaty signed, her Majesty could not, consistent with her character of mediator, receive a Minister from America without the consent of those powers; that the treaty of America was provisional only, and dependent upon those arrangements; and though there was no doubt but they would take place, and that the definitive treaty would be concluded, yet, till that was done, her Majesty could not consider me in my character as the Minister of America.

Here he made a long pause, as if waiting for an answer, but knowing that the whole had not yet come out, I made no attempts to reply. He then added, that he supposed my *letter of credence* bore date before the acknowledgment of the independence of America by the King of Great Britain, and asked me if that was not the fact. I told him that it must necessarily be so, as a sufficient time had not since elapsed to receive one from America. He then said, that when the above arrangements should be completed, if I should produce new letters of credence, bearing date since the King of Great Britain had acknowledged the independence of America, her Majesty would be very willing to receive me as the Minister of America, but that it would be incompatible with that exact neutrality, which her Majesty had hitherto observed, to do it before; that it would be irregular also for her Majesty to admit a Minister from a power, whose letter of credence bore date before she had acknowledged the independence of that power; that besides, no Minister had been received from America at the Court of Great Britain yet, and that I must be sensible it would not be consistent for her Majesty to receive one before the King of Great Britain had done it. Here he stopped again; and knowing that he had gone through his whole subject, which comprises these simple matters only, viz.

1st. That her Majesty could not, consistent with the character of a mediator as above, receive a Minister from the United States, till the conclusion of the definitive treaty between France, Spain, and Great Britain;

2dly. That she could not do it even then, consistent with the laws of neutrality, while his letter of credence bore date prior to the acknowledgment of their independence by the King of Great Britain;

3dly. That she could not do it regularly, while his letter of credence bore date before she herself had acknowledged their independence;

4thly. That she could not do it consistently before a Minister had been received from the United States in Great Britain—

I desired him to favor me with a note containing the substance of his answer, as it was of great importance, and much in the affairs of this sort depended upon the very expressions; that with the fairest intentions, I might misrepresent some parts of it through forgetfulness, and that I would deliver him my observations upon it in writing for consideration, when the exact state of the matter would be known. Finding, as I had expected, that he declined this I began my reply with a preface of this sort: the answer, which your Excellency has given me on the part of her Imperial Majesty, is wholly unexpected, not only to myself, but to the United States. I cannot therefore, take upon me to say any thing upon it from instructions. I beg you would be pleased to consider whatever I may say as my private sentiments; whether they will accord with those of my Sovereign, I am not certain. At this great distance, I must use my best discretion in all such extraordinary cases. I have no design to oppose myself to her Majesty's pleasure, whatever that may be; but only to make some observations upon the answer, that if they are of any weight, they may be taken into consideration, as I have no doubt they will be. I would beg to take this occasion to express the high respect, which the United States entertain for her Imperial Majesty, and their sincere desire to cultivate her friendship; that they considered her as one of the first sovereigns of the world, and, in a manner, the great legislator of nations by her system of neutrality, which they had early highly applauded, and had made the principles of it the invariable rules of their conduct during the war; that, animated with sentiments of this kind, they wished to give some strong proofs of a distinguished attention and consideration for her Majesty's person and government. With this view, they had early named a Minister to reside near her, as a compliment to the Sovereign who presided over the Neutral Confederation with so much glory; that he might improve the earliest occasion to display his character, which the course of events should afford.

From these dispositions, they were naturally led to expect, as they had intended, that her Imperial Majesty would be the first of the neutral powers, which should receive a Minister from them; that as to the objections, which had been made to my present reception, I begged leave to observe, that the present mediation differed from the former one, which had been tendered by their Imperial Majesties, in two essential respects, that that was tendered during the continuance of hostilities, and that there was a proposition in it, which materially concerned the United States, but in this there was no question relative to them; that their negotiations with Great Britain had been conducted apart from those of the other belligerent powers, and were brought to a happy conclusion. I here took up all the facts stated to him in my second letter of the 21st. inst. and enlarged upon them. I added to them, the bill pending before the House of Commons in the beginning of March, for regulating a commercial intercourse between Great Britain and America, as between States, in fact, and absolutely independent, and that the bill itself recited, that the King had concluded a peace with them, and expressly declared the vessels of their citizens should be admitted into all the ports of Great Britain, as the vessels of other independent States, that all were agreed to consider them as such. From these matters, I drew the same conclusion as is mentioned in that letter.

This closed my observations upon the first article. As to the second, I went

over the reasons contained in my letter of the 22d instant to you, urging strongly the four first, but passing gently over the rest. Upon the third, it was to be observed, that the mode of expression "before her Majesty had acknowledged the independence of America," seemed to lead beside the matter. That there was no question in the acknowledgment of that independence. The only question was, whether her Majesty would receive a Minister from the United States, who now presents himself. The United States do not ask the acknowledgment of their independence, nor have they a wish, nor do they claim a right to impose their Minister upon any Sovereign. Every Sovereign will judge, whether it is for the interest of his empire to receive the Minister of another, and may do this without deciding upon the perfect rights of that other. This is rather what I would have said, than what I did say upon that point. I could not fully advance the idea, as he several times prevented me, by returning to the matter he had before spoken upon, as if he saw what I intended to say and wished to avoid it. The fourth and last point was chiefly answered by the arguments used upon the first. I did not, however, forget the distance of the countries as the only probable cause of that delay.

Thus, Sir, I have given you a clear idea of a conference, which rests wholly upon my memory, and which had continued an hour wanting a few minutes, as far as I am able to do. Other arguments occurred to me in the time, which might have been urged, but I was apprehensive of obtruding too much upon the patience of the Vice Chancellor, whose view it must be considered was rather to communicate the answer, than to discuss the points of it.

I have the honor to be, &c.

FRANCIS DANA.

48. *From David Hartley to Benjamin Franklin.*

Defects of form in the ratification of the treaty by Congress.

Paris, June 1, 1784. Sir, I have the honor to inform you, that I have transmitted to London the ratification on the part of Congress of the Definitive Treaty of peace, between Great Britain and the United States of America; and I am ordered to represent to you, that a want of form appears in the first paragraph of that instrument, wherein the United States are mentioned before his Majesty, contrary to the established custom in every treaty, in which a crowned head and a republic are parties. It is likewise to be observed, that the term definitive *articles* is used instead of definitive *treaty*, and the conclusion appears likewise deficient, as it is neither signed by the President, nor is it dated, and consequently, is wanting in some of the most essential points of form necessary towards authenticating the validity of the instrument.

I am ordered to propose to you, sir, that these defects in the ratification should be corrected, which might very easily be done, either by signing a declaration in the name of Congress for preventing the particular mode of expression, so far as it relates to precedency in the first paragraph, being considered as a precedent to be adopted on any future occasion, or else by having a new copy made out in America, in which these mistakes should be corrected, and which might be done without any prejudice arising to either of the parties from the delay.

I am, sir, with great respect, &c.

DAVID HARTLEY.

45. *B. Franklin to David Hartley.*

Answers to Objections made in the preceding Letter.

Passy, June 2, 1784. Sir, I have considered the observations you did me the honor of communicating to me, concerning certain inaccuracies of expression, and supposed defects of formality, in the instrument of ratification, some of which are said to be of such a nature as to affect the validity of the instrument.

The first is, "that the United States are named before his Majesty, contrary to the established custom observed in every treaty in which a crowned head and a republic are the contracting parties." With respect to this, it seems to me we should distinguish between that act in which both join, to wit, the treaty, and that which is the act of each separately, the ratification. It is necessary, that all the modes of expression in the joint act should be agreed to by both parties, though in their separate acts each party is master of, and alone unaccountable for its own mode.— And, on inspecting the treaty, it will be found that his Majesty is always regularly named before the United States. Thus, "the established custom *in treaties* between crowned heads and republics," contended for on your part, is strictly observed; and the ratification following the treaty contains these words: "Now knew ye, that we, the United States in Congress assembled, having seen and considered the definitive articles aforesaid, have *approved, ratified and confirmed*, and by the presents do *approve, ratify and confirm* the said articles, AND EVERY PART AND CLAUSE THEREOF," &c. Hereby all those articles, parts and clauses, wherein the King is named before the United States, are *approved, ratified and confirmed*, and this solemnly under the signature of the President of Congress, with the public seal affixed by their order, and countersigned by their Secretary.

No declaration on the subject more determinate or more authentic, can possibly be made or given, which, considered, may probably induce his Majesty's Ministers to waive the proposition of our signing a similar declaration, or of sending back the ratification to be corrected in this point, neither appearing to be really necessary. I will, however, if it be still desired, transmit to Congress the observation, and the difficulty occasioned by it, and request their orders upon it. In the meantime I may venture to say, that I am confident there was no intention of affronting his Majesty, by their order of nomination; but it resulted merely from that sort of complaisance, which every nation seems to have for itself, and of that respect for its own government, customarily so expressed in its own acts, of which the English, among the rest, afford an instance, when, in the title of the King, they always name Great Britain before France.

The second objection is, that the term definitive *articles* is used instead of definitive *treaty*." If the words *definitive treaty*, had been used in the ratification instead of *definitive articles*, it might have been more correct, though the difference seems not great nor of much importance, as in the treaty itself it is called the present *Definitive Treaty*.

The other objections are, "that the conclusion likewise appears deficient, as it is neither signed by the President, nor is it dated, and consequently is wanting in some of the most essential points of form necessary towards authenticating the validity of the instrument." The situation of seals and signatures, in public instruments, differs in different countries, though all equally valid; for when all the parts of an

Instrument are connected by a ribband, whose ends are secured under the impression of the seal, the signature and seal, wherever placed, are understood as relating to and authenticating the whole. Our usage is, to place them both together in the broad margin near the beginning of the piece, and so they stand in the present ratification, the concluding words of which declare the intention of such signing and sealing to be giving authenticity to the whole instrument, viz: "*In testimony* whereof, We have *caused* the seal of the United States to be hereunto affixed; Witness his Excellency Thomas Mifflin, Esquire, President;" and the date supposed to be omitted, perhaps from its not appearing in figures, is nevertheless to be found written in words at length, viz: "this fourteenth day of January, in the year of our Lord one thousand seven hundred and eighty-four," which made the figures unnecessary.

With great esteem and respect, &c.

B. FRANKLIN.

50. Extract from the Secret Journal of Foreign Affairs, touching an insult offered Monsieur de Marbois. A letter from the Supreme Executive Council of Pennsylvania was read in the following words:

His Excellency the president of Congress.

Philadelphia, May 28th, 1784. Sir, some days ago an insult was offered by a Frenchman [Longchamps] to M. de Marbois, in the hotel of the Minister of France; and afterwards an assault was made upon him by the same person in a street of this city. The offender has been arrested by our direction, under the warrant of a judge of the Supreme Court, and is now confined in the common prison, where we have ordered him to be detained. Our respect for Congress induces us to inform them of this affair; and we should have done ourselves the honor of making the communication sooner, but that the criminal was not in confinement till yesterday. We should be much pleased to be favored with the sentiments of Congress upon this business, being extremely desirous that our proceedings may correspond with their judgement, and to testify our determined resolution with all our powers to maintain the dignity of the United States, to preserve the public repose, to assert the law of nations, and to manifest our entire regard for the representatives of the sovereignty of the Union. With perfect esteem, J. DICKINSON.

Whereupon the following was moved by Mr Hand, seconded by Mr Montgomery:

That Congress highly approve the determined resolution of the Supreme Executive Council of the State of Pennsylvania to maintain the dignity of the United States, to preserve the public repose, to assert the law of nations, and manifest their entire regard for the representatives of the sovereignty of the Union, expressed by their letter of the 28th instant."

51. *Thomas Jefferson to John Jay.*
Portugal, &c. Extract.

Paris, Oct. 11 1785. Sir. Considering the treaty with Portugal as among the most interesting to the U. S. I, some time ago, took occasion, at Versailles, to ask of the Portuguese Ambassador, if he had yet received from his Court an answer to our letter. He told me he had not, but that he would make it the subject of another letter. Two days ago his *Secrétaire d'Ambassade*, called on me with a letter from his Minister to the Ambassador, in which was the following paragraph, as he translated it to me, and I committed it to writing from his mouth: "In relation to the information

which your Excellency gave us, as to the conversation with the American Minister, that power should be already persuaded, that in effect from the manner in which their ships have been received here, it follows as a consequence, that his Majesty would have great satisfaction, in maintaining perfect harmony and good correspondence, with the United States. But it would appear proper to begin by the reciprocal nomination, by the two parties, of persons bearing at least the character of agents, who would mutually inform their constituents, of whatever might lead to the knowledge of the interests of the two nations, without prejudice to either. It is the first step which appears suitable to be taken, to attain the end proposed."

By this it would seem that this power is more disposed to pursue a train of negociation similar to that which Spain has done. I consider this answer as *definitive* of all further measures under our commission to Portugal. That to Spain was superseded by proceedings in another line; that to Prussia is concluded by actual treaty; to Tuscany will probably be so; and perhaps to Denmark; and these, I believe, will be *the sum* of the effects of our commissions for making treaties of alliance. England shews no disposition to treat. France, should her ministers be able to keep the ground of the arrest of August, 1784, against the clamors of her merchants, and should they be disposed hereafter to give us more, it is not probable she will bind herself to it by treaty, but keep her regulations dependent on her own will.

Sweden will establish a free port at St. Bartholomews, which, perhaps, will render any new engagements on our part unnecessary. Holland is so immovable in her system of colonial administration, that as propositions to her on that subject would be desperate, they had better not be made.

I repeat it, therefore, that the conclusion of the treaty with Prussia, and the probability of others with Denmark, Tuscany, and the Barbary States, may be expected to wind up the proceedings of the general commissions.

I think that in possible events, it may be advantageous to us, by treaties with Prussia, Denmark and Tuscany, to have secured ports in the Northern and Mediterranean seas. I have the honor to be, &c. TH: JEFFERSON

52. *Th: Jefferson to the Count De Vergennes.*

Commercial Reciprocity. Extract.

Paris, November 20th, 1785. Sir, I found here, on my return from Fontainebleau, the letter of October 30th, which your Excellency did me the honor there of informing me, had been addressed to me at this place; and I shall avail myself of the first occasion of transmitting it to Congress, who will receive, with great pleasure, these new assurances of the friendly sentiments, which his Majesty is pleased to continue towards the United States.

I am equally persuaded they will pay the most serious attention to that part of your Excellency's letter, which mentions the information you have received, of certain acts or regulations of navigation and commerce, passed in some of the United States, which are injurious to the commerce of France. In the meantime, I wish to remove the unfavorable impressions which those acts seems to have made, as if they were a departure from the reciprocity of conduct stipulated by the treaty of Feb'y 6th, 1778. The effect of that treaty is to place each party, with the other,

always on the footing of the most favored nation. But those who framed the acts, probably, did not consider the treaty as restraining either from discriminating between foreigners and natives. Yet this is the sole effect of these acts. The same opinion as to the meaning of the treaty, seems to have been entertained by this Government, both before and since the date of these acts. For the arret of the King's Council, of August 30th, 1784, furnishes an example of such a discrimination between foreigners and natives importing salted fish into his Majesty's dominions in the West Indies, by laying a duty on that imported by foreigners, and giving out the same bounty to native importers. This opinion shews itself more remarkably in the late arrets of the 18th and 25th of September, which, increasing to excess the duty on foreign importations of fish, into the West Indies, giving double in bounty on those of the natives, and thereby rendering it impossible for the former to sell in competition with the latter, have, in effect, prohibited the importation of that article, by the citizens of the United States.

Both nations, perhaps, may come into the opinion that their friendship and their interest may be better cemented by approaching the condition of their citizens reciprocally, to that of *natives*, as a better ground of intercourse than that of the *most favored nation*. I am, &c.

TH: JEFFERSON.

53. *From the Chevalier de la Luzerne to the President of Congress*

Luzerne's Recall.

Paris, 1787. The king having thought proper to destine me to another service than that of Minister Plenipotentiary near Congress, I have the honor of addressing to you my letter of recall, and of requesting that it may be presented to that assembly.

The advantage which I enjoyed for six years, of negotiating upon the greatest and most important affairs with Congress, an intimate knowledge of those great statesmen and patriots, who successively composed that illustrious body, are sure guarantees of the respect and admiration which I entertain for them.

I shall never forget that the most pleasing moments of my life, have been those, when charged with the management of the interests of the two great allies, I have been so fortunate as to see constantly, the most perfect confidence and harmony prevail. Prosperity as well as adversity have served to bind still closer the ties of our union, founded on justice; and what has perhaps never happened before in an alliance of this nature, not for a single moment has a coolness or uneasiness existed; but it has been crowned by the most brilliant, the most glorious, and the most useful of revolutions. Never shall I forget the marks of personal confidence, which I have received from Congress on various occasions. Absent from them, I console myself with the reflection, that my successor, by his zeal and talents, will easily place my feeble services in oblivion.

Condescend, sir, to be the interpreter of my sentiments to that illustrious assembly, over which you preside, my unceasing prayers shall henceforth be offered up for a nation, whose firmness and patriotism have caused the admiration of the universe. Accept, sir, individually, &c.

DE LA LUZERNE.

54. *Consular Exemptions.*

Duties on tea and silk sent as presents from Canton.

Office of Foreign Affairs, September 25, 1787. The Secretary of the United States for Department of Foreign Affairs, to whom was referred a letter of the 16th Aug. 1787, from Sir John Temple, the British Consul General, reports—

That this letter states, that a relation at Canton sent him in the Hope, lately arrived at this port, a small box of tea, and a piece of silk, for Lady Temple's use, that he sent for them, and that the Collector returned for answer, that as there was no treaty of commerce subsisting between his Britannic Majesty and the seStates, Sir John must pay the impost or duties charged upon such articles by the Government of the State of New-York. Sir John requests to be informed, whether or not it be right and proper for him to pay the duties so demanded.

Two things in this letter merit attention—*first*, the implied claim of the Consul to an exemption from duties; and *secondly*, the reason assigned by the Collector for demanding the ordinary duties in the *present* case.

The respect due from nation to nation, and from Sovereign to Sovereign, has introduced among civilized nations the general custom and usage of exempting Ambassadors and public Ministers from duties and imposts. The only question on this point which merits attention is, whether Consuls are to be considered in this light.

In the opinion of your secretary, Consuls are not, by the laws or usage of nations, considered or treated as public Ministers, and therefore that they are not entitled to the exemptions in question either here or elsewhere.

It would seem, from the collector's answer, that he considers the other Consuls, between whose nations and the United States treaties of commerce exist, as entitled to such exemptions; and therefore, your secretary is inclined to think it would be expedient for Congress to correct that mistake. It appears from general experience, that this privilege to Ambassadors and Ministers has produced many inconveniences, and is attended with great abuse—in so much, that some nations have found it necessary to take measures to guard against and check them. In France, it is usual for Ministers to report the articles intended to be introduced, and the Government pays the duties to the farmers; and a late instance of an Ambassador at the court of London, importing 800 dozen of wine at one time, for the use of his table, and shortly after disposing of 500 dozen of them to grocers, has called the attention of the Ministry to the necessity of establishing regulations on the subject; but what they will be is not yet decided. If such inconveniences result from such a privilege to a few Ambassadors and Ministers, men high in office and reputation, and whose situations render such practices particularly indecent and improper, it is easy to foresee how much greater and more extensive evils would result from similar indulgencies to the numerous Consuls to be found in every commercial country, to admit them.

It is submitted, therefore, to the consideration of Congress, whether (without taking any particular notice of Sir John's case) it would not be proper to resolve as follows, viz:

Whereas doubts have in certain instances arisen, whether foreign Consuls, residing in the United States, are entitled to an exemption from such legal imposts

and duties on Merchandizes by them imported, for their own use, as are payable by other subjects of their respective nations.

Resolved, That no Consuls, of any nation, are entitled to such exemptions in the United States.

All which is submitted to the wisdom of Congress.

JOHN JAY.

55. *From John Jay to Mr Gardoqui.*

Present from a Foreign Power.

New York, March 1, 1786. Dear Sir, I have received the letter which you did me the honor to write yesterday, informing that instead of granting a permit, as you requested for me to purchase and export a horse, his Majesty has been pleased to order one to be sent to you for me. This is indeed doing a favor in a royal manner; it demands my sincere and respectful acknowledgments, and I shall take the liberty of requesting the Count de Florida Blanca to express to the King the sense I entertain of it.

I ought, however, to apprise you, that I do not consider myself at liberty to accept the horse without the previous permission of Congress. I shall immediately lay your letter before them, and acquaint you without delay of the answer they may be pleased to give.

Your application for the permit was friendly and obliging; accept my thanks for it, and be assured of the esteem and regard with which I have the honor to be,
JOHN JAY.
&c.

56. *From Count de Florida Blanca to Wm. Carmichael.*

Relative to the rank and powers of Don Diego de Gardoqui. Extract.

St. Laurens, 7th October, 1784. Sir, As the U. States have not conferred upon you any other title than that of Charges d'Affairs, Don Diego de Gardoqui will only have the same: but notwithstanding it is not usual in Europe, for sovereigns to give credentials to mere Charges d'Affairs, yet, considering the circumstances of this commission, he will have credentials from his Majesty to the United States; and the King chooses as a mark of distinction which they merit, that it shall be in every respect similar to what his Majesty gives to the Ministers which he sends to the United Provinces of the low countries, with this exception only, that the latter are in French, and Mr Gardoqui's will be in Spanish.

His Majesty hopes no difficulty will occur in the reception of Don Diego de Gardoqui; and in his presenting his credentials to Congress with proper formality—but although attention has thus been paid to what might happen, he will carry a letter of credence to the President of Congress, that by means thereof, and of the full powers given by his Majesty, the execution of his commission may not be delayed on account of points of etiquette.

THE COUNT DE FLORIDA BLANCA.

57. *From Wm. Carmichael to John Jay.*

Negotiation with Spain. Extract.

Aranjuez, May 6th, 1789. Sir, he [F. Blanca] recapitulated animatedly the good offices which we had received from this country, our treatment in their ports as the most favored nation the satisfaction given to the complaints of individuals, our

treaty with Morocco, his late Majesty's firm intentions to employ for the States any influence he might have with the other Barbary Powers. In return for all which, this court had experienced a delay and an indifference on our part, little corresponding with the views it had in sending Mr Gardoqui to America. It was in vain to interrupt, indeed I thought it better not to do it; he continued, that our delay and indifference were not the only cause of complaint, that he had received proofs of another nature of the ill will of the United States. I immediately desired to know what these were, for that it often happened that misconceptions arose from mistaken notions of the persons who gave information; I prayed his Excellency to have the goodness to communicate to me candidly the intelligence he had received that I might have an opportunity of giving such explanations, as I was convinced I should be able to do from my knowledge of the desire of my constituents to cultivate the friendship of his Catholic Majesty. I could, however, draw nothing from him but general expressions, and a recapitulation of the abovementioned. He added, that Mr Gardoqui had received every instruction necessary to conclude a convention with the United States, but that unaccountable delay and aversion on our part had rendered the measures taken here ineffectual. I in vain endeavored to enter into explanations and discussions on these points, he constantly interrupted me in saying "all that I can tell you is, that Spain only desires to receive from the United States that the same treatment that it has evinced towards them." As he opened the door in finishing this sentence, I was constrained to leave him.

I have the honor to be, &c.

W. CARMICHAEL.

58. *From John Adams to John Jay.*

South American Affairs. Extract.

Grosvenor Square, May 28, 1786. Dear Sir, An agent from South America, was not long since arrested at Rouen in France, and has not since been heard of. Another agent, who was his associate, as I have been told, is here, and has applied to Government for aid. Government, not in a condition to go to war with Spain, declines having any thing to do with the business. But if application should be made to rich individuals, and profitable prices offered, for twenty or thirty thousand stands of arms, a number of field pieces, a few battering cannon, some mortars, a good deal of ammunition, clothing, &c., do you think that in this capital of mammon, they might not be obtained? I might mention names and facts, which have been communicated to me. But my information is not official nor authentic enough for this. It is sufficient to say, that an office like that, once undertaken by Mr Beaumarchais, would not probably be refused by all men here.

You are probably better informed than I can pretend to be of the disturbances which took place in the Spanish provinces of South America, during the late war, of the pacification of them, and of the complaints and discontents which now prevail. It is a fixed opinion in many minds here, that a revolution in South America would be agreeable to the U. States; and it is depended on that we shall do nothing to prevent it, if we do not exert ourselves to promote it, I shall decline entering far into this speculation which is out of my depth. But I must venture to say, that Portugal is bound by a treaty of 1778, to assist Spain in such a case. France must assist her, from the family compact, and for a still more weighty reason, viz:

to prevent England from getting too rich and powerful by it; and Holland is now bound by treaty to France, and perhaps to Spain. We should be very cautious what we do. For England will certainly reap the greatest advantage, as she will supply, with her manufactures, all South America, which will give her a sudden wealth and power, that will be very dangerous to us.

That British Ambassadors will very soon endeavor to excite the two Empires and Denmark, to an alliance, for the purpose of setting the Spanish and Portuguese colonies free, is very probable, as an inducement they may agree to assist in opening the Danube and the navigation by the Dardanelles. The object of the next war, I think, will be the liberty of commerce in South America, and the East Indies. We shall be puzzled to keep out of it. But I think we ought if we can.—England would gain the most by such a turn in affairs, by the advantages she has over other nations in the improvements of her manufactures, commerce and marine, and England, unfortunately, we cannot trust.

With great and sincere esteem, &c.

JOHN ADAMS.

59. *From John Adams to John Jay.*

Introduction to the Queen. Speech to her Majesty. Queen's reply. Reasons for sending an account of these formalities home. Extract.

Bath Hotel, Westminster, June 10, 1785. Sir, Yesterday, the ninth of the month, I was presented to the Queen,* by my Lord Aylesbury, her Lord Chamberlain, having been attended to his Lordship and introduced to him by the master of the ceremonies. The Queen was attended by her ladies, and I made my compliments to her Majesty in the following words:

“Madam, Among the many circumstances which have rendered my mission to his Majesty desirable to me, I have ever considered it as a principal one, that I should have an opportunity of making my court to a great Queen, whose royal virtues, and talents, have ever been acknowledged and admired in America, as well as in all nations of Europe, as an example to Princesses and the glory of her sex. Permit me, Madam, to recommend to your Majesty's royal goodness, a rising empire and an infant virgin world. Another Europe, Madam, is rising in America. To a philosophical mind, like your Majesty's, there cannot be a more pleasing contemplation, than this prospect of doubling the human species, and augmenting, at the same time, their prosperity and happiness. It will in future ages be the glory of these kingdoms to have peopled that country, and to have sown there those seeds of science, of liberty, of virtue, and permit me, Madam, to add, of piety, which alone constitute the prosperity of nations, and the happiness of the human race.

“After venturing upon such high insinuations to your Majesty, it seems to be descending too far, to ask, as I do, your Majesty's royal indulgence to a person, who is indeed unqualified for courts, and who owes his elevation to his distinguished honor of standing before your Majesty, not to any circumstances of illustrious birth, fortune, or abilities, but merely to an ardent devotion to his native country, and some little industry and perseverance in her service.”

The Queen answered me in these words: “I thank you, Sir, for your civilities to me and my family, and am glad to see you in this country.”

The Queen then asked me if I had provided myself with a house. I answered, I have agreed for one, Madam, this morning. She then made her courtesy, and I

made my reverence and retired into the drawing room, when the King, Queen, Princess Royal and the younger Princess, her sister, all spoke to me very obligingly. I attended until the drawing room was over, and then returned home.

It has been necessary, in order to guard against false reports and malicious fictions, to reduce to writing what was said in my audience of the King and Queen, and it is the custom of all Ministers to transmit these compliments to their courts.

I transmit them to you in cypher, that they may be exposed to as little criticism as possible, as the Court knew very well that the eyes of all nations were fixed upon these audiences. It may be fairly concluded from them that it is the intention of the Royal family and of Ministers to treat America like other foreign powers; but our inferences can go no farther. With esteem, &c. JOHN ADAMS.

60. *From John Adams to John Jay.*

Impressment of American Seamen.

London, September 22, 1787. Dear Sir, There was yesterday in the river, an impress of seamen, and several American vessels had their men taken from them. An application was made to me this morning, by a master of a ship from New York, and I instantly wrote a letter to Lord Carmarthen, and went in person to White Hall to deliver it. His Lordship read the letter, and the representation to me from the Captain, and after some conversation on the subject, assured me that he would take measures to have the men restored, and precautions against such mistakes in future. With respect, &c. JOHN ADAMS.

61. *From John Adams to John Jay.*

Lord Carmarthen expresses a wish for a Commercial Treaty with the United States. His opinion of the New Constitution. Extract.

Grosvenor Square, February 14, 1788. Dear Sir, At the last conferences at White Hall, which were last Thursday, Lord Carmarthen thought proper to express a wish that this country had some sort of treaty of commerce with the United States of America, that it might be no longer necessary to take new measures from time to time, which looked hard. This observation his Lordship made, alluding to Mr Grenville's motion in the house of commons, for making the regulation of the intercourse between America and the West India islands perpetual. His Lordship then immediately said, "I presume, Mr Adams, that the States will all immediately adopt the new constitution, I have read it with pleasure, it is very well drawn up." All this oracular utterance was to signify to me what has all along been insinuated, that there is not as yet any national government, but that as soon as there shall be one, the British court will vouchsafe to treat with it. You will see by the Morning Chronicle of the 12th of February, enclosed, that Mr Grenville's speech is in the same strain, so that we may conclude it to be the concerted language of the cabinet. It is unnecessary for me to make any reflections upon it; the argument that arises out of it, in favor of the new constitution, and a prompt acceptance of it, is but one among many. France and Holland furnish as many reasons as England. Mr Jefferson must soon follow my example, and return to America, if that constitution is not accepted by all the States, and what will be the consequence of the clamors of all the officers in France, who are creditors, of all the notables who may be pleased to cast reflections, and of all our creditors in

Holland; for want of payment of interest and principal as they become due, must be left to every American citizen seriously to consider.

With great esteem and regard, &c.

JOHN ADAMS.

62. *John Adams to John Jay.*

Thinks there will be no Commercial Treaty until England is made to feel its necessity. Arguments of the English in defence of their system. How met by the Americans.

Bath Hotel, Westminster, June 26, 1785. Dear Sir, Although I have been received here, and continue to be treated with all the distinction which is due to the rank and title you have given me, there is, nevertheless, a reserve which convinces me, that we shall have no treaty of commerce until this nation is made to feel the necessity of it. I am every day astonished at the ignorance of all ranks of people of the relation between this country and ours, *cui bono* they cry. To what end a treaty of commerce, when we are sure of as much American trade as we have occasion for, without it; the experiment has been tried, and the Americans have found that they cannot supply themselves elsewhere; there must be *quid pro quo*, and what have the United States to give in exchange for the liberty of going in their own ships to our sugar colonies, and our colonies upon the continent? These smart reasoners are answered, the Americans allow Britons to come in their own vessels to all their ports in the United States, and this is more than a *quid* for your *quo*. This is the true reciprocity, and while we allow you this liberty, we have a right to demand it in return. But, replies the Briton, you cannot avoid this, you have no government, you cannot agree to prohibit our ships and goods and goods, or to lay duties on them; then, says the American, you give up the argument of reciprocity, you confess that you are not willing to allow us a *quid* for your *quo*, are disposed to take advantage of our supposed disunion, to get unequal benefits from us; but you will find yourselves disappointed in this disunion that you build so much upon, nothing but too much good nature to you, and too high an opinion of your wisdom, has prevented the States, hitherto, from uniting in a reciprocal discouragement of your ships and goods, but when the Americans find themselves deceived, you will soon see them too much united for your purposes. Such have been the dialogues in conversation for a year or two, and these ignorant sophisms of the Britons will never be confuted to any effect, until vigorous measures are taken by all the States in concert. Whatever measures are taken, I should recommend them to be taken upon this express proviso, to continue in force only until things shall be otherwise settled by a treaty of commerce. With great esteem, &c. JOHN ADAMS.

63. *John Adams to John Jay.*

Management of the Public Press.—American Commerce.

Grosvenor Square, Westminster, August 31, 1785. Sir, It is the practice of Ministers here, when they have in contemplation a project of whose utility, practicability, necessity, expediency, or popularity, they are doubtful, to set some writer to compose a pamphlet, or a number of writers to compose a paragraphs in the newspapers. The pamphlets and paragraphs are read in the coffee houses, &c. other places where the politicians assemble, by the ministerial runners who take down the observations they hear, and report them to the Ministers. This method has been

tried concerning the projected admission of American ships and oil, and the unanimous voice was found to be decidedly pronounced against it. This, however, was, I presume, upon the presumption that the Americans could never unite in retaliation; that it would be many years before they could act as a nation, and that the United States, could never make a navigation act. This is the principle upon which this nation after the peace, decided its judgment concerning the system that ought to be adopted relatively to the United States. In conference with Mr Pitt, I made this remark to him, I told him that since I had been in England, I had made it my business to collect and read every thing which had been written and published since the peace, upon the commercial relations between Great Britain and the United States. That I found every one of these writers, who was for limiting and restraining the American commerce by prohibitions, alien duties, &c. laid it down as the fundamental principle of his system, that in all events this country was sure of the American commerce, because we could not unite and act as a nation in any retaliating prohibitions or duties. This idea had been first suggested to Lord Sheffield by some of the American refugees, and had been communicated to the nation by him and other writers, who took it from him without sufficient examination. I ventured to give Mr Pitt my opinions in very full terms, that this principle would be found to be an erroneous one by experience, that time would shew that the English nation had been misled in its judgment by this suggestion, which they had been too prone to believe, but might find to be an error when it would be too late. It is, however, by no means certain that the clearest refutation of that error, by the utmost unanimity in America, in any measures to defend their navigation, would now alter the public voice and public opinion here. The public is not to be easily reasoned out of a settled opinion, though it might have been easy, in the season of it, to have reasoned it into the settlement of a different opinion.

The papers are now filled with paragraphs, which an attentive reader may perceive are inserted, in order to feel out the sentiments of the people concerning a treaty of commerce with France, with Spain, with America, concerning the new Hanoverian engagements in Germany, and concerning the posts, negroes, debts, tories and all other points in dispute with the United States; they are disguised in such a manner, that it is scarcely possible to discover how the Minister inclines; nevertheless, some of them are in such a strain, and discover such an anxiety about the treaties of commerce in negotiation with France and Spain, that I suspected they (the Ministry) have made some propositions to those Courts, and are anxious both to know whether they will be accredited or not, and how they will be received by the British and Irish nations, if they should be accepted; a few months time will remove their and our solicitude upon this head.

I have the honor to be, &c.

JOHN ADAMS.

64. *From John Adams to John Jay.*

Audience of leave of his Majesty.—Address to the King.—Reply of his Majesty.

Grosvenor Square, February 21, 1788. Dear Sir, Yesterday I had my audience of leave to his Majesty. I shall not trouble you with any particulars, of the previous steps to obtain this audience (which you know are always troublesome enough) nor with any detail of the conversation, farther than the public is imme-

diately interested in it. The substance of my address to his Majesty was no more than a renewal of assurances in behalf of the United States, of their friendly dispositions, and of their continued desire to cultivate a liberal intercourse of commerce, and good offices with his Majesty's subjects and States, thanks for the protection and civilities of his court, and good wishes of prosperity to his Majesty, his royal family, his subjects and dominions. The King's answer to me, was in these words: "Mr Adams, you may with great truth assure the United States that whenever they shall fulfil the treaty, on their part, I, on my part, will fulfil it in all its particulars. As to yourself, I am sure I wish you a safe and pleasant voyage, and much comfort with your family and friends."

This was the answer in ceremony. His Majesty was then pleased to ask me many questions about myself and my family, how long I had been absent from them, &c. which were intended, I suppose to be very gracious and flattering, but were of no consequence to the public, and, therefore, will be here omitted. It now remains to take leave of the Queen and the Princesses, the cabinet Ministers, and corps diplomatique, a species of slavery, more of which I believe has fallen to my share, than ever happened before to a son of liberty; and I much fear, that the omission of a letter of recall, and the offence taken at it in Holland, will oblige me to go over to the Hague to repeat the same tedious ceremonies there. At this season of the year, so near the equinox, to have the passage from Harwich to Helvoet to cross twice, is a punishment for sins to me unknown.

With much affection, &c.

JOHN ADAMS.

65. *From James Duane to John Jay.*

Encloses a copy of the judgment against Wessels, for violation of the privileges of a Minister Plenipotentiary.

New-York, Office of Mayoralty, August 8, 1788. Sir, I have the honor to enclose you a copy of the judgement, this day pronounced by the court against Wessels, a constable, for the violation of the privileges of his Excellency Mr Van Berckel, Minister Plenipotentiary of their High Mightinesses, the States General of the United Netherlands, at this Court. He accordingly stands committed to the common jail. I have the honor to be, &c.

JAMES DUANE.

City and County of New-York, ss. At a court of general sessions of the peace, holden at the City Hall, in and for the city and county of New-York, before James Duane, Esquire, Mayor; Richard Varick, Esquire, recorder; and William W. Gilbert, Esquire, Alderman, of the city of New-York, and their associates, justices of the peace of the State of New-York, assigned to keep the peace within the said city and county, on Friday the 8th day of August, 1788.

The people of the State of New-York *versus* John Wessels. The defendant, having at the last sessions been indicted for assaulting and falsely imprisoning James Van Antwerp, a servant of his Excellency the Minister of the United Netherlands, contrary to the law of nations and the privileges of Ambassadors, and the defendant having then plead thereto not guilty, comes now into court and prays leave to retract his plea, pleads guilty, and submits to the mercy of the court.— Whereupon it is ordered that he be committed to the common jail of this city and county, there to remain for the space of three calendar months.

Extract from the minutes.

ROBERT BENSON, Clerk.

66. *From John Jay to P. J. Van Berckel.*

Exemplary punishment of Wessels.

Office for Foreign Affairs, Aug. 8th 1788. Sir, the paper herewith enclosed was this moment transmitted to me by the Mayor of the City. You will perceive from it, that the constable who violated your privileges, has been subject to exemplary punishment. It is the more severe upon him, as he is in indigent circumstances, and has a family dependent on him. I flatter myself that the conduct of the court on this occasion will meet with your approbation: and as there is reason to expect, as the nature and extent of the privileges in question will in future be better known, that due respect will uniformly be paid to them.

With great respect and consideration, &c.

JOHN JAY.

67. *From Thomas Jefferson to John Jay.*

Letter received from a Brazilian on the emancipation of his country. Extract.

Marseilles, May 4, 1787. Sir, My journey in this part of the country, has procured me information which I will take the liberty of communicating to Congress. In October last I received a letter dated Montpelier, October 2nd, 1786, announcing to me that the writer was a foreigner, who had a matter of very great consequence to communicate to me, and desired I would indicate the channel through which it might pass safely. I did so. I received, soon after, a letter in the following words, omitting only the formal parts:

“I am a Brazilian, and you know that my unhappy country groans under a most dreadful slavery, which becomes more intolerable since the era of your glorious independence—the barbarous Portuguese sparing nothing to make us unhappy for fear that we should follow your steps. And as we know that these usurpers against the law of nature and of humanity, have no other thoughts than of crushing us, we are determined to follow the striking example which you have given us; and consequently to break our chains, and to bring to life liberty, which is now dead and oppressed by physical force, which is the only power Europeans have over America. But as Spain will not fail to join Portugal, it is necessary that a nation should join us. And notwithstanding the advantages we have for defence, we cannot do it, or at least it would not be prudent for us to run any hazard, without being sure of success. Your nation, sir, is, we think, that which should most suitably assist us, because it is her that has given us the example; and also, because nature has made us inhabitants of the same continent, and has consequently constituted us, in some sort, countrymen. We are ready, on our part, to furnish all the funds that may be necessary, and show, at all times, our gratitude towards our benefactors. This is the substance of my intentions, and it is to fulfil this commission, that I am now in France, as I could not do it in America without exciting some suspicions. It is for you to judge if they can be realized. And in case you should wish to consult your nation on the subject, I am enabled to give all the information that you may think necessary.

“Montpelier, 21 Nov.” I have the honor to be, &c. TH: JEFFERSON.

68. *From Thomas Jefferson to John Jay.*

Arrest of Mr. Barclay, American Consul, for debt, and liberation by the Parliament of Bourdeaux. Conversation with the Minister on the subject.

Paris, June 21, 1787. Sir, Mr. Barclay has probably informed you of his having been arrested in Bourdeaux, for a debt contracted in the way of his commerce; he immediately applied to the parliament of that place, who ordered his discharge, this took place after five days actual imprisonment. I arrived at Bourdeaux a few days after his liberation; as the Procureur General of the King had interested himself to obtain it, with uncommon zeal, and that too on public principles, I thought it my duty to wait on him, and return him thanks; I did the same to the President of the Parliament, for the body over which he presided. What would have been an insult in America, being an indispensable duty here. You will see by the enclosed printed paper, on what ground the Procureur insisted on Mr. Barclay's liberation; those on which the Parliament ordered it are not expressed. On my arrival here, I spoke with the Minister on the subject; he observed, that the character of Consul is no protection in this country against process for debt; that, as to the character with which Mr. Barclay had been invested at the Court of Morocco, it was questionable, whether it could be placed on the diplomatic line, as it had not been derived immediately from Congress; that, if it were, it would have covered him to Paris only, where he had received his commission, had he proceeded directly thither, but that his long stay at Bourdeaux, must be considered as terminating it there. I observed to him, that Mr. Barclay had been arrested almost immediately on his arrival at Bourdeaux, but he says, that arrest was made void by the Parliament, and still he has continued there several weeks; true, I replied, but his adversaries declared they would arrest him again the moment he should be out of the jurisdiction of the Parliament of Bourdeaux, and have actually engaged the *Marechaussee* on the road, to do it; this seemed to impress him; he said he could obtain a letter of *sauf conduit*, which would protect him to Paris, but that immediately on his arrival here, he would be liable to arrest. I asked him if such a letter could not be obtained to protect him to Paris and back to Bourdeaux, and even to America? He said, that for that, the consent of the greater part of his creditors would be necessary, and even with this, it was very doubtful whether it could be obtained. Still, if I should furnish him with that consent, he would do what should depend on him. I am persuaded he will, and have written to Mr. Barclay to obtain the consent of his creditors, This is the footing on which this matter stands at present.

I have the honor to be, &c.

TH: JEFFERSON.

69. *From Thomas Jefferson to John Jay.*

Relative to the misconduct of the Count de Moustier. Representation to the Count de Montmorin. Leave of absence will probably be given to M. de Moustier. M. Ternant will be sent over as *Charge d'Affaires*.

Paris, February 4, 1789. Sir, I had before understood, through different channels that the conduct of the Count de Moustier was politically and morally offensive. It was delicate for me to speak on the subject to the Count de Montmorin. The invaluable mediation of our friend, the Marquis de la Fayette, was, therefore, resorted to, and the subject explained, though not pressed. Later intelligence, shewing the necessity of pressing it, it was yesterday resumed, and represented through the same medium, to the Count de Montmorin, that recent information

proved to us, that his Minister's conduct had rendered him personally odious in America, and might even influence the dispositions of the two nations; that his recall was become a matter of mutual concern; that we had understood he was instructed to remind the new government of their debt to this country, and he was in the purpose of doing it in very harsh terms; that this could not increase their desire of hastening payment, and might wound their affections; that, therefore, it was much to be desired that his discretion should not be trusted to, as to the form in which the demand should be made, but that the letter should be written here, and he instructed to add nothing, nor was his private conduct omitted. The Count de Montmorin was sensibly impressed. He very readily determined, that the letter should be formed here, but said that the recall was a more difficult business; that as to Moustier they could not recall him from that Ministry, without giving him another, and there was no vacancy at present. However, he would hazard his first thoughts on the subject, saving the right of correcting them by further consideration. They were these, that there was a loose expression in one of de Moustier's letters, which might be construed into a petition for leave of absence; that he would give him permission to return to France; that it had been before decided, on the request of the Marquis de la Luzerne, that Otto should go with him to London; that they would send a person to America as Charge d'Affaires, in place of Otto, and that, if the President (General Washington) approved of him, he should be afterwards made Minister. He had cast his eye on Colonel Ternant, and desired the Marquis to consult me, whether he would be agreeable. At first I hesitated, recollecting to have heard Ternant represented in America, as an hypochondriac, discontented man, and paused for a moment between him and Bartholemy, at London, of whom I have heard a great deal of good. However, I concluded it safer to take one whom we knew and who knew us. The Marquis was decidedly of this opinion. Ternant will see that his predecessor is recalled for an unconciliatory deportment, and that he will owe his own promotion to the approbation of the President. He established a solid reputation in Europe, by his conduct when Generalissimo of one of the United Provinces, during their late disturbances; and it is generally thought that if he had been put at the head of the principal province, instead of the Rhingrave de Salm, he would have saved that cause. Upon the whole, I believe you may expect that the Count de Moustier will have an immediate leave of absence, which will soon after become a recall in effect. I will try also, to have the Consuls admonished as to the line of conduct they should observe. I have now that of assuring you of the sentiments of sincere esteem and respect, &c.

TH: JEFFERSON.

70. *President's Proclamation of Neutrality.*

Whereas it appears, that a war exists between Austria, Prussia, Sardinia, Great Britain, and the United Netherlands on the one part, and France on the other; and the duty and interest of the U. States require, that they should with sincerity and good faith adopt and pursue a conduct friendly and impartial towards the belligerent powers: I have, therefore, thought fit, by these presents, to declare the disposition of the U. States to observe the conduct, aforesaid, towards these powers respectively; and to exhort and warn the citizens of the U. States, carefully to avoid:

all acts and proceedings, whatsoever, which may in any manner tend to contravene such dispositions. And I do, hereby, also, make known, that whosoever of the citizens of the U. States shall render himself liable to punishment or forfeiture under the laws of nations, by committing, aiding, or abetting hostilities against any of the said powers, or by carrying to any of them, those articles, which are deemed *contraband by the modern usages of nations*, will not receive the protection of the U. States against such punishment or forfeiture; and further, that I have given instructions to those officers to whom it belongs, to cause prosecutions to be instituted against all persons, who shall, within the cognizance of the Courts of the U. States, violate the laws of nations with respect to the powers at war, or any of them.

In testimony whereof, I have caused the seal of the United States of America to be affixed to these presents, and signed the same with my hand. Done at the city of Philadelphia, the twenty-second day of April, one thousand seven hundred and ninety-three, and of the Independence of the United States of America the seventeenth.

[L. S.]

GEORGE WASHINGTON.

By the President, TH. JEFFERSON.

71. *Circular addressed to the Foreign Ministers, on Promulgating the above.*

Sir,—As far as the public gazettes are to be credited, we may presume that war has taken place among several of the nations of Europe, in which France, England, Holland and Prussia are particularly engaged. Disposed ourselves to pursue steadily the ways of peace, and to remain in friendship with all nations, the President of the United States has thought it expedient, by the proclamation of which I enclose you a copy, to notify this disposition to our citizens, in order to intimate to them the line of conduct for which they are to prepare, and this he has done without waiting for a formal notification from the belligerent powers. He hopes that those powers, and your nation in particular, will consider this early precaution as a proof the more candid, as it has been unasked, of the sincere and impartial intentions of our country, and that what is meant merely as a general intimation to our citizens, shall not be construed to their prejudice in any courts of admiralty, as if it were conclusive evidence of their knowledge of the existence of war, and of the powers engaged in it. Of this we could not give them conclusive information, because we have it not ourselves, and till it is given to us in form, and so communicated to them, we must consider all their acts as lawful, which would have been lawful in a state of peace.

Mr Ternant, Mr Van Berckel, Mr Hammond.

72. *M. Duplaine's Exequatur Revoked.*

George Washington, President of the United States of America, to all whom it may concern:—The Sieur Antoine Charbonnet Duplaine, heretofore having produced to me his commission as Vice Consul for the Republic of France within the States of New Hampshire, Massachusetts, and Rhode Island, and having thereon received from me an exequatur, bearing date the 5th day of June 1793, recognising him as such, and declaring him free to exercise and enjoy such functions, powers and privileges as are allowed to vice consuls of the French Republic by the laws, treaties and conventions in that case made and provided; and the said

Sieur Duplaine having, under colour of his said office, committed sundry encroachments and infractions on the laws of the land, and particularly having caused a vessel to be rescued with an armed force, out of the custody of an officer of justice, who had arrested the same by process from his court; and it being, therefore, no longer fit nor consistent with the respect and obedience due to the laws, that the said Sieur Duplaine should be permitted to continue in the exercise and enjoyment of the said functions, privileges, and powers, these are, therefore, to declare, that I do no longer recognise the said Antoine Charbonnet Duplaine, as Vice Consul of the Republic of France in any part of these United States, nor permit him to exercise or enjoy any of the functions, powers, or privileges allowed to the Vice Consuls of that nation; and that I do, hereby, wholly revoke and annul the said exequatur, heretofore given, and do declare the same to be absolutely null and void, from this day forward. In testimony whereof, I have caused these letters to be made patent, and the seal of the United States of America to be hereunto affixed.

Given under my hand, this day of in the year of our Lord 1793, and of the Independence of the United States of America, the eighteenth.

By the President: TH: JEFFERSON.

GEORGE WASHINGTON.

73. *Mr Jay's Instructions to the Court of London.*

Extract. April, 1794.

The mission upon which you are about to enter, as Envoy Extraordinary to the Court of London, has been dictated by considerations of an interesting and pressing nature.

You will doubtless avail yourself of these to convince Mr. Pinckney, our Minister in ordinary there, of the necessity of this measure, and will thus prevent any wound to his sensibility. He may be assured that it is the impression which will naturally accompany this demonstration of the public sentiment, and not the smallest abatement of confidence in him, which has recommended a special appointment. Nor will any of his usual functions be suspended, except so far as they may be embraced in the present commission. It would be unnecessary to add, but for the sake of manifesting this fact, and removing difficulties which may arise in your own breast, that you will communicate with him without reserve.

A full persuasion is entertained that throughout the whole negotiation you will make the following its general objects: to keep alive in the mind of the British Minister that opinion, which the solemnity of a special mission must naturally inspire, of the strong agitations excited in the people of the United States by the disturbed condition of things between them and Great Britain; to repel war, for which we are not disposed, and into which the necessity of vindicating our honour and our property may, but can alone drive us; to prevent the British ministry, should they be resolved on war, from carrying with them the British nation; and, at the same time, to assert, with dignity and firmness, our rights, and our title to reparation for past injuries.

You will mention, with due stress, the general irritation of the United States at the vexations, spoliations, captures, &c. and being on the field of negotiation, you will be more able to judge than can be prescribed now, how far you may state the difficulty, which may occur in restraining the violence of some of our exasperated citizens.

If the British Ministry should hint any supposed predilection in the United States for the French nation, as warranting the whole or any part of these instructions, you will stop the progress of this subject as being irrelative to the question in hand. It is a circumstance which the British nation have no right to object to; because we are free in our affections, and independent in our government. But it may be safely answered, upon the authority of the correspondence between the Secretary of State and Mr Hammond, that our neutrality has been scrupulously observed.

In this negotiation as to the treaty of peace, we have been amused by transferring the discussions concerning its inexecution and infractions from one side of the Atlantic to the other. In the meantime, one of the consequences of holding the posts has been much bloodshed on our frontiers by the Indians, and much expence. The British Government having denied their abetting of the Indians, we must of course acquit them. But we have satisfactory proofs (some of which, however, cannot, as you will discover, be well used in public,) that British agents are guilty of stirring up, and assisting with arms, ammunition, and warlike implements, the different tribes of Indians against us. It is incumbent upon that Government to restrain those agents; or the forbearance to restrain them cannot be interpreted otherwise than as a determination to countenance them. It is a principle from which the United States will not easily depart, either in their conduct towards other nations, or what they expect from them, that the Indians dwelling within the territories of one, shall not be interfered with by the other.

It may be observed here, as comprehending both of the foregoing points, that the United States testify their sincere love of peace by being nearly in a state of war, and yet anxious to obviate absolute war by friendly advances; and if the desire of Great Britain to be in harmony with the United States be equally sincere, she will readily discover what kind of sensations will at length arise, when their trade is plundered; their resources wasted in an Indian war; many of their citizens exposed to the cruelties of the savages; their rights by treaty denied; and those of Great Britain enforced in our Courts. But you will consider the inexecution and infraction of the treaty as standing on distinct ground from the vexations and spoliations; so that no adjustment of the former is to be influenced by the latter.

It is referred to your discretion whether, in case the two preceding points should be so accommodated as to promise the continuance of tranquillity between the United States and Great Britain, the subject of a commercial treaty may not be listened to by you, or even broken by the British ministry.

74. *Mr Monroe's Instructions to the Republic of France.*

Extract.

Philadelphia, June 10, 1794. Sir, You have been nominated as the successor of Mr Gouverneur Morris, in the office of minister plenipotentiary of the United States of America to the Republic of France, from a confidence, that while you keep steadily in view the necessity of rendering yourself acceptable to that government, you will maintain the self respect due to your own. In doing the one and the other of these things, your own prudence and understanding must be the guides: after first possessing yourself of the real sentiments of the Executive relative to the French nation.

The President has been an early and decided friend of the French Revolution; and whatever reason there may have been, under our ignorance of facts and policy, to suspend an opinion upon some of its important transactions, yet is he immutable in his wishes for its accomplishment; incapable of assenting to the right of any foreign prince to meddle with its interior arrangements; and persuaded that success will attend their efforts; and particularly, that union among themselves is an impregnable barrier against external assaults.—We have pursued neutrality with faithfulness; we have paid more of our debt to France than was absolutely due, as the Secretary of the Treasury asserts, and we should have paid more if the state of our affairs did not require us to be prepared with funds for the possible event of war. We mean to continue the same line of conduct in future, and to remove all jealousy with respect to Mr. Jay's mission to London, you may say, that he is positively forbidden to weaken the engagements between this country and France. It is not improbable, that you will be obliged to encounter on this head, suspicions of various kinds. But you may declare the motives of that mission to be, to obtain immediate compensation for our plundered property, and restitution of the posts.

Should you be interrogated about the treaty of commerce, you may reply that it has never been proposed to us by M. Fauchet. As to any thing else concerning it, you will express yourself not to be instructed, it being a subject to be negotiated with the government here.

In like manner, if a treaty of alliance, or if the execution of the guaranty of the French Islands by force of arms, should be proposed, you will refer the Republic of France to this side of the water. In short, it is expected, with a sure reliance on your discretion, that you will not commit the United States by any specific declaration, except where you are particularly instructed, and except, too in giving testimony of our attachment to their cause.

It is important that no public character of the United States should be in France which is not acceptable. You will inquire into the consulships, and inform how they are approved, and whether they be deserving. Although the President will avoid, as much as possible, to appoint any obnoxious person consul, it may happen otherwise, and must be considered as accidental. Mr Alexander Duvernat goes for Paris in the quality of vice consul, and Mr Fauchet said that he had nothing to object to him.

Consulates are established in every port of France where they are conceived useful. But perhaps you may find it advisable to mark out some other places for such offices.

It is recommended that no business of consequence be carried on verbally, or in writing, but in your own language.

The minister of each nation has a right to use his national tongue, and few men can confide in their exactness when they do business in a foreign one. But great care is necessary in the choice of interpreters when they are to be resorted to.

It is a practice of great utility to note down every conversation of consequence which you hold, immediately after retirement; and the Executive will expect to receive copies of what shall be thus written.

With every wish, &c.

EDMUND RANDOLPH.

75. *Mr Monroe to the Secretary of State.*

Extract.

Paris, December 22, 1795. Sir: The Count Carletti, late envoy, &c. from Tuscany, left Paris some four or five days since. He had refused going until he had heard from the Grand Duke; and remained, notwithstanding the reiterated orders of the directoire. Finally, however, he was ordered to depart in twenty-four hours, (this was not done before as I stated my last) with intimation that force would be used to compel him, in case he did not. He still held out, however, the flag of defiance. The twenty-four hours expired, at which moment a commissary, with a carriage from the Government, waited to receive his orders for departure; or in other words, to take the Count by force, and conduct him safe beyond the bounds of the republic; which was accordingly done. The diplomatic corps was summoned, by a member either averse to this peremptory mode of proceeding, or friendly to the Count, to interfere with directoire in his behalf: but several members of that corps were of opinion, that, although sometimes a demand is made on the Government of a minister who gives offence, to recall him, yet there is no obligation on the Government offended, by the law of nations, to take that course; but that it may take any other, and even upon slight occasions, to rid itself of him, more prompt and summary, if it thinks fit; and, in consequence, no steps was taken by the diplomatic corps on the subject.

76. *Mr Monroe to the Directory, on presenting his Letter of Recall.*

On the 30th of December, 1796.

I have the honor to present you with my letter of recall from the President of the United States of America, which closes my political functions with the French republic; and I have likewise the honor to add, that I am instructed by the President to avail myself by this occasion to renew to you, on his part, an assurance of the solicitude which the United States feel for the happiness of the French republic.

In performing this act, many other considerations crowd themselves upon my mind. I was a witness to a Revolution in my own country. I was deeply penetrated with its principles, which are the same with those of your Revolution. I saw, too, its difficulties; and remembering these, and the important services rendered us by France upon that occasion, I have partaken with you in all the perilous and trying situations in which you have been placed.

It was my fortune to arrive among you in a moment of complicated danger from within and from without; and it is with the most heartfelt satisfaction that, in taking my leave, I behold victory and the dawn of prosperity upon the point of realizing, under the auspices of a wise and excellent constitution, all the great objects for which, in council and the field, you have so long and so nobly contended. The information which I shall carry to America of this state of your affairs will be received by my countrymen with the same joy and solicitude for its continuance, that I now feel and declare for myself.

There is no object which I have always had more uniformly and sincerely at heart, than the continuance of a close union and perfect harmony between our two nations, I accepted my mission with a view to use my utmost efforts to increase and promote this object, and I now derive consolation in a review of my conduct,

from the knowledge that I have never deviated from it. Permit me, therefore, to express an earnest wish that this harmony may be perpetual.

I beg leave to make to you, citizen directors, my particular acknowledgments for the confidence and attention with which you have honored my mission during its continuance, and at the same to assure you that, as I shall always take a deep and sincere interest in whatever concerns the prosperity and welfare of the French republic, so I shall never cease, in my retirement, to pay you, in return for the attention you have shown me, the only acceptable recompense to generous minds, the tribute of a grateful remembrance.

77. *Answer of the President of the Directory.*

On Mr Monroe's Recall.

Mr Minister Plenipotentiary of the United States of America: By presenting this day to the executive directory your letters of recall, you offer a very strange spectacle to Europe. France, rich in her freedom, surrounded by the train of her victories, and strong in the esteem of her allies, will not stoop to calculate the consequences of the condescension of the American Government to the wishes of its ancient tyrants. The French republic expects, however, that the successors of Columbus, Raleigh, and Penn, always proud of their liberty, will never forget that they owe it to France. They will weigh in their wisdom the magnanimous friendship of the French people, with the crafty caresses of perfidious men, who meditate to bring them again under their former yoke. Assure the good people of America, Mr Minister, that, like them, we adore liberty; that they will always possess our esteem, and find in the French people that republican generosity which knows how to grant peace, as well as to cause its sovereignty to be respected.

As for you, Mr Minister Plenipotentiary, you have combated for principles; you have known the true interests of your country—depart with our regret. We restore, in you, a representative to America; and we preserve the remembrance of the citizen whose personal qualities did honor to that title.

78. *Opinion of E. Randolph on the Property of Rivers, to T. Jefferson.*

On the Seizure of the Ship Grange in Bay of Delaware. Extract.

Phila. May 15, 1793. The high ocean, in general, it is true, is unsusceptible of becoming property. It is a gift of nature, manifestly destined for the use of all mankind—inexhaustible in its benefits—not admitting metes and bounds. But rivers may be appropriated, because the reverse is their situation. Were they open to all the world, they would prove the inlets of perpetual disturbance and discord; would soon be rendered barren by the number of those who would share in their products; and moreover, may be defined:

“A river, considered merely as such, is the property of the people, through whose lands it flows, or of him under whose jurisdiction that people is.” Grot. b. 2. c. 2. s. 12.

“Rivers might be held in property; though neither where they rise, nor where they discharge themselves be within our territory, but they join to both, or the sea. It is sufficient for us, that the larger part of water, that is, the sides, is shut up in our banks, and that the river, in respect of our lands, is itself small and insignifi-

cant." Grot. b. 2. c. 3. §. 7, and Barbeyrac, in his note, subjoins, that neither of those is necessary.

"Rivers may be the property of whole states." Puff. b. 3. c. 3 s. 4.

"To render a thing capable of being appropriated, it is not strictly necessary, that we should enclose it, or be able to enclose it within artificial bounds, or such as are different from its own substance; it is sufficient, if the compass and extent of it can be any way determined. And therefore, Grotius hath given himself a needless trouble, when, to prove rivers capable of property, he useth this argument, that although they are bounded by the land at neither end, but united to the others or sea; yet it is enough, that the greater part of them, that is, their sides, are enclosed." Puff. h. 4. c. 5. s. 3.

"When a nation takes possession of a country in order to settle there, it possesses every thing included in it, as lands, lakes, rivers," &c. Vattel, b. 1. c. 22. s. 226.

To this list might be added Bynkershoek and Selden. But the dissertation of the former, *de dominio maris*, cannot be quoted with advantage in detachment; and the authority of the latter *on this head* may, in the judgment of some, partake too much of affection for the hypothesis of *mare clausum*. As Selden, however, sinks in influence on this question, so must Grotius rise, who contended for the *mare liberum*; and his accurate commentator, Rutherford, confirms his principles in the following passage; "A nation, by settling upon any tract of land, which at the time of such settlement had no other owner, acquires, in respect of all other nations, an exclusive right of full or absolute property, not only in the land, but in the waters likewise, that are included within the land, such as rivers, pools, creeks or bays. The absolute property of a nation, in what it has thus seized upon, is its right of territory." 2 Ruth. b. 2. c. 9. s. 6.

Congress too have acted on these ideas, when in their collection laws, they ascribe to a state the rivers, wholly within that state.

—But suppose that the *river* was dried up, and the *bay* alone remained, Grotius continues the argument of the 7th section, of the 3d chapter, of the 2d book above cited, in the following words:

"By this instance it seems to appear, that the property and dominion of the sea might belong to him, who is in possession of the lands on both sides, though it be open above as a gulf, or above and below, as a strait; provided it is not so great a part of the sea, that, when compared with the lands on both sides, it cannot be supposed to be some part of them. And now, what is thus lawful to one king or people, may be also lawful to two or three, if they have a mind to take possession of a sea, thus enclosed within their lands; for it is in this manner, that a river, which separates two nations, has first been possessed by both, and then divided."

"The gulfs and channels, or arms of the sea are, according to the regular course, supposed to belong to the people, with whose lands they are encompassed." Puff. b. 4. c. 5. s. 8.

Valin, in b. 5. tit. 1. p. 685, of his commentary on the marine ordinance of France, virtually acknowledges, that *particular seas* may be appropriated. After reviewing the contest between Grotius and Selden, he says, "S'il (Selden) s'en fut donc tenu la, ou plutot, s'il eut distingue l'Océan des mers particulieres, et meme dans l'Océan, l'étendue de mer, qui doit être censée appartenir aux souverains des cotes, qui en sont baignées, sa victoire eut été complète." E. RANDOLPH.

79. *From President Washington to House of Representatives.*

Treaty-making Power. Extract. March 30. 1796.

Having been a member of the General Convention, and knowing the principles on which the constitution was formed, I have ever entertained but one opinion on this subject; and from the first establishment of the government to this moment, my conduct has exemplified that opinion, that the power of making treaties is exclusively vested in the President, by and with the advice and consent of the Senate, provided two-thirds of the Senators present concur. and that every treaty so made and promulgated, thenceforward became the law of the land. It is thus that the treaty making power has been understood by foreign nations; and in all the treaties made with them, *we* have declared, and *they* have believed, that when ratified by the President, with the advice and consent of the Senate, they became obligatory. In this construction of the constitution, every House of Representatives has heretofore acquiesced; and until the present time, not a doubt or suspicion has appeared to my knowledge, that this construction was not the true one. Nay, they have more than acquiesced; for till now, without controverting the obligation of such treaties, they have made all the requisite provisions for carrying them into effect.

There is reason to believe that this construction agrees with the opinions entertained by the state conventions, when they were deliberating on the constitution; especially by those who objected to it, because there was not required in *commercial treaties* the consent of two-thirds of the whole number of the members of the Senate, instead of two-thirds of the Senators present, and because in treaties respecting territorial and certain other rights and claims, the concurrence of three-fourths of the whole number of the members of both Houses respectively was not made necessary.

It is a fact declared by the General Convention, and universally understood, that the constitution of the United States was the result of a spirit of amity and mutual concession. And it is well known that under this influence, the smaller states were admitted to an equal representation in the Senate, with the larger States; and this branch of the government was invested with great powers; for on the equal participation of those powers the sovereignty and political safety of the smaller States were deemed essentially to depend.

If other proofs than these, and the plain letter of the constitution itself, be necessary to ascertain the point under consideration, they may be found in the journals of the General Convention, which I have deposited in the office of the Department of State. In those journals it will appear that a proposition was made "that no treaty should be binding on the United States which was not ratified by a law;" and that the proposition was explicitly rejected.

As, therefore, it is perfectly clear to my understanding, that the assent of the House of Representatives is not necessary to the validity of a treaty; as the treaty with Great Britain exhibits, in itself, all the objects requiring legislative provision, and on these the papers called for can throw no light; and as it is essential to the due administration of the government, that the boundaries fixed by the constitution between the different departments, should be preserved—a just regard to the constitution, and to the duty of my office, under all the circumstances of this case, forbid a compliance with your request.

GEO. WASHINGTON.

80. *To the Minister Plenipotentiary of Great Britain.*

Representation on the Western Posts.

Philadelphia, June 19, 1793. Sir, I had the honour to address you a letter, on the 29th of May was twelvemonth, on the articles still unexecuted of the treaty of peace between the two nations. The subject was extensive and important, and therefore rendered a certain degree of delay, in the reply, to be expected. But it has become such, as naturally to generate inquietude. The interest we have in the western posts, the blood and treasure which their detention costs us daily, cannot but produce a correspondent anxiety on our part. Permit me, therefore, to ask, when may I expect the honour of a reply to my letter, and to assure you of the sentiments of respect, with which I have the honor to be, &c. TH: JEFFERSON.

81. *Geo. Hammond to Th: Jefferson Secretary of State.*

Western Posts.

Phila. June 20, 1793. Sir, There is one passage in your letter of yesterday, sir, of which it becomes me to take some notice.—The passage I allude to is that wherein you mention “the blood and treasure which the detention of the western posts costs the United States daily.” I cannot easily conjecture the motives in which this declaration has originated. After the evidence that this government has repeatedly received of the strict neutrality observed by the king’s governors of Canada, during the present contest between the United States and the Indians, and of the disposition of those officers to facilitate, as far as may be in their power, any negociations for peace, I will not for a moment, imagine, that the expression I have cited was intended to convey the insinuation of their having pursued a different conduct, or that it had any reference to those assertions, which have been lately disseminated, with more than usual industry, through the public prints in this country, that the western posts have been used, by the government of Canada, as the medium of supplying military stores to the Indians now engaged in war with the United States.

I can assure you, sir, that if the delay on the part of my country, in the execution of certain articles of the treaty of peace, is such as to create inquietude in this government, I also experience similar impressions with respect to those articles which have, hitherto, not been carried into effect by the United States; as I am perpetually receiving complaints from the British creditors, and their agents in this country, or if their inability to procure legal redress in *any* of the courts of law in one or two of the southern states; in which states the greatest part of the debt remaining due to the subjects of Great Britain still continues to exist in the same condition as that in which it was at the conclusion of the war.

I have the honor to be, &c.

GEO: HAMMOND.

82. *T. Jefferson to G. Morris, at Paris.*

Remonstrance to the French Government on M. Genet’s illegal proceedings in the U. S. Ext.

Philadelphia, August 16, 1793. Sir, The violation of all the laws of order and morality which bind mankind together, would be an unacceptable offering to a just nation. Recurring then only to recent things, after so afflicting a libel, we recollect with satisfaction that in the course of two years, by unceasing exertions, we paid up seven years arrearages and instalments of our debt.

to France, which the inefficacy of our first form of government had suffered to be accumulating: that pressing on still to the entire fulfilment of our engagements, we have facilitated to Mr Genet the effect of the instalments of the present year, to enable him to send relief to his fellow citizens in France, threatened with famine; that in the first moment of the insurrection which threatened the colony of St. Domingo, we stepped forward to their relief with arms and money, taking freely on ourselves the risk of an unauthorized aid, when delay would have been denial; that we have received, according to our best abilities, the wretched fugitives from the catastrophe of the principal town of that colony, who escaping from the swords and flames of civil war, threw themselves on us naked and houseless, without food or friends, money or other means, their faculties lost and absorbed in the depth of their distresses; that the exclusive admission to sell here the prizes made by France on her enemies, in the present war, though unstipulated in our treaties, and unfounded in her own practice, or in that of other nations, as we believe; the spirit manifested by the late grand jury in their proceedings against those who had aided the enemies of France with arms and implements of war; the expression of attachment to his nation, with which Mr Genet was welcomed, on his arrival and journey from south to north, and our long forbearance under his gross usurpations and outrages of the laws and authority of our country, do not bespeak the partialities intimated in his letters. And for these things he rewards us by endeavors to excite discord and distrust between our citizens and those whom they have entrusted with their government; between the different branches of our government; between our nation and his. But none of these things, we hope, will be found in his power. That friendship, which dictates to us to bear with his conduct yet awhile, lest the interest of his nation here should suffer injury, will hasten them to replace an agent, whose dispositions are such a misrepresentation of theirs, and whose continuance here is inconsistent with order, peace, respect, and that friendly correspondence which we hope will ever subsist between the two nations. His government will see too that that the case is pressing. That it is impossible for two sovereign and independent authorities to be going on within our territory, at the same time, without collision. They will foresee that if Mr Genet perseveres in his proceedings, the consequences would be so hazardous to us, the example so humiliating and pernicious, that we may be forced even to suspend his functions before a successor can arrive to continue them. If our citizens have not already been shedding each others blood, it is not owing to the moderation of Mr Genet, but to the forbearance of the government.— It is well known that if the authority of the laws had been resorted to, to stop the Little Democrat, its officers and agents were to have been resisted by the crew of the vessel, consisting partly of American citizens. Such events are too serious, too possible, to be left to hazard, or to what is worse than hazard, the will of an agent whose designs are so mysterious. Lay the case then immediately before his government; accompanying it with assurances, which cannot be stronger than true, that our friendship for the nation is constant and unabating; that, faithful to our treaties, we have fulfilled them in every point to the best of our understanding; that if in any thing, however, we have construed them amiss, we are ready to enter into candid explanations, and to do whatever we can be convinced is right; that in opposing the extravagances of an agent, whose character they seem not sufficiently to

have known, we have been urged by motives of duty to ourselves, and justice to others, which cannot but be approved by those who are just themselves; and, finally, that, after independence and self-government, there is nothing we more sincerely wish than perpetual friendship with them. I have the honor to be, &

TH: JEFFERSON.

83. *Opinion of the Secretary of State, Mr Randolph, in 1793,*

On the hostile movement, organized in Kentucky, against Louisiana. Extract.

That foreigners should meddle in the affairs of a government where they happen to be, has scarcely ever been tolerated, and is often very severely punished. That foreigners should point the force of a nation against its will, to objects of hostility, is an invasion of its dignity, its tranquillity, and even safety. Upon no principle can the individuals on whom such guilt shall be fixed, bid the government to wait until their numbers shall defy the ordinary animadversions of law, and until they are incapable of being subdued by the force of arms.—Nor is this offence of foreigners expiated or lessened by an appeal to a presumed right in the citizens of *Kentucky* to enlist under such banners without the approbation of their country. In a government instituted for the happiness of the whole, with a clear delineation of the channels in which the authority derived from them, must flow, can a part only of the citizens wrest the sword from the hands of those magistrates, whom the whole have invested with the direction of military power? They may, it is true, leave their country, they may take arms and provisions with them, but if these acts be done not on the ground of mere personal liberty, but of being retained in a foreign service for purposes of enmity against another people, satisfaction will be demanded, and the state, to which they belong, cannot connive at their conduct without hazarding a rupture. The laws have rendered it lawful for the President, in case of invasion, to call forth the militia, or to issue his orders for that purpose to such officer of the militia as he shall think proper. They have empowered him to call forth the militia of one state for the suppression of an insurrection in another, under certain circumstances, and to subdue by the militia any combinations against the laws which may be too powerful for ordinary judicial proceedings.

84. *General Pinckney to the Secretary of State.*

Non-reception of the American Minister by the French Directory. Extract.

Paris, Dec. 20th, 1796. M. De la Croix on the 21st Frimaire, wrote to Mr. Monroe, and informed him, "that he had laid before the directory, the copy of his letters of recall, and of the letters of credence of M. Pinckney, whom the President of the United States had named to succeed him in quality of minister plenipotentiary of the said states near the French Republic." From the character with which I was invested, must be apparent both to the directory and to the minister of foreign affairs, and that in that character, I was entitled to the protection of the laws of nations, whether the directory received me or not: If they permitted me to remain until I heard from my government, I was under the protection of those laws: If they ordered me to quit the territories of the Republic, I was still entitled to letters of safe conduct, and passports on my journey out; that this was the case even with Ministers of belligerent powers, much more ought it to apply between us who were at peace. He said, supposing M. De la Croix had been mistaken in

having desired my letters of credence, in seeing me, in his laying those letters of credence before the directory, such mistake of the minister could not be binding on the directory. I replied that it was impossible for me to admit that the minister of foreign affairs had committed a mistake in his official duty; he was held forth to the world as minister, all his acts must be accredited as performed within the line of his duty and under a competent authority; and that his letter to Mr Monroe, showed he was desirous that the established usage should be complied with. He said he did not allege that there was a mistake; he had only for argument sake, urged a supposition which might be unfounded; that he would communicate what I mentioned to M. De la Croix; I desired him at the same time to inform De la Croix, that I requested whatever further passed might be in writing, that no mistakes might happen by verbal communication, and that I might know explicitly, what were the intentions of the directory. Since this conversation I have not heard from the directory, or any of the ministers or agents. C. C. PINCKNEY.

85. *Mr C. C. Pinckney to the Secretary of State.*

Disclosing an attempt, by a lady, to procure a gratuity from the American Ministers, for the restoration of Friendship between France and the United States. Extract.

Paris, December 21, 1797. On the twentieth of December, a lady* who is well acquainted with M. Talleyrand, expressed to me her concern, that we were still in so unsettled a situation: "But," adds she, "why will not you lend us money? If you would but make us a loan, all matters would be adjusted:" and, she added, "When you were contending for your revolution, we lent you money." I mentioned the very great difference there was between the situation of the two countries at that period and the present; and the very different circumstances under which the loan was made us, and the loan was now demanded from us. She replied, "We do not make a demand; we think it more delicate that the offer should come from you: but M. Talleyrand has mentioned to me (who am surely not in his confidence) the necessity of your making us a loan: and I know that he has mentioned it to two or three others; and that you have been informed of it; and I will assure you, that if you remain here six months longer, you would not advance a single step further in your negotiations, without a loan." "If that is the case," I replied, "we may as well go away now." "Why that possibly," said she, "might lead to a rupture, which you had better avoid; for we know we have a very considerable party in America, who are strongly in our interest." There is no occasion to enter into a further detail of the conversation. I have only noted this part of it as expressive of what I believe (as far as relates to the loan, and a party in America in their favor) to be the sentiments of the French government with regard to us, CHARLES COTESWORTH PINCKNEY.

86. *Secretary of State to Mr Pinckney, at Paris.*

French depredations on Neutrals.—Modification of the Mutual Guaranty, &c.—Belligerents leaving Ports, &c. Extract.

Philadelphia, June 12, 1797. Although the reparation for losses, sustained by the citizens of the United States, in consequence of irregular or illegal captures, or condemnations, or forcible seizures, or detentions, is of very high importance,

* Understood to be Mad. de Villette, the Belle et Bonne of Voltaire—connected with the W. X. Y. Z. conversations.

and is to be pressed with the greatest earnestness, yet it is not to be insisted on as an indispensable condition of the proposed treaty. You are not, however, to renounce those claims of our citizens, nor to stipulate that they be assumed by the United States, as a loan to the French government.

In respect to the alterations of the commercial treaty with France in the two cases, which have been principal subjects of complaint on her part, viz. enemies' property in neutral ships, and the articles contraband of war; although France can have no right to claim the annulling of stipulations at the moment, when by both parties they were originally intended to operate, yet, if the French government presses for alterations, the President has no difficulty in substituting the principles of the law of nations, as stated in the 17th and 18th articles of our commercial treaty with Great Britain, to those of the 23d and 24th articles of our commercial treaty with France; and in respect to provisions and other articles, not usually deemed contraband, you are to agree only on a temporary compromise, like that in the 18th article of the British treaty, and of the same duration. If, however, in order to satisfy France, *now she is at war*, we change the two important articles before mentioned, then the 14th article of the French treaty, which subjects the property of the neutral nation, found on board enemies' ships, to capture and condemnation, must of course be abolished.—Great Britain has often claimed a right, and practised upon it, to prohibit neutral nations carrying on a commerce with her enemies, which has not been allowed in time of peace. On this head, it will be desirable, to come to an explicit understanding with France, and, if possible, to obviate the claim by an express stipulation.

Such extensive depredations have been committed on the commerce of neutrals, and especially of the United States, by the citizens of France, under pretence that her enemies (particularly Great Britain) have done the same things, it will be desirable to have it explicitly stipulated, that the conduct of an enemy towards a neutral power shall not authorize or excuse the other belligerent power in any departure from the law of nations, or the stipulations of the treaty: especially that, the vessels of the neutral nation shall never be captured, or detained, or their property confiscated, or injured, because bound to or from an enemy's port, except the case of a blockaded port, the entering into which may be prevented, according to the known rule of the law of nations. And it may be expedient to define a blockaded place or port to be one, actually invested by land, or naval forces, or both, and that no *declaration* of a blockade shall have any effect without such actual investment. As a substitute for the reciprocal guaranty may be proposed a mutual renunciation of the same territories and possessions, that were subjects of the guaranty and renunciation in the sixth and eleventh articles of the treaty of alliance. Such a renunciation, on our part, would obviate the reason assigned in the instruction to M. Genet, before cited, *of future danger from the rapidly growing power of the United States*. But if France insists on the mutual guaranty, it will be necessary to aim at some modification of it. The existing engagement is of that kind, which, by writers on the law of nations, is called a general guaranty; of course the *casus fœderis* can never occur except in a *defensive war*. The nature of this obligation is understood to be, that when a war, *really and truly defensive*, exists, the engaging nation is bound to furnish an *effectual and adequate defence* in co-ope-

ration with the power attacked: whence it follows, that the nation may be required in some circumstances to bring forward its whole force. On the part of the United States, instead of troops or ships of war, it will be convenient to stipulate for a moderate sum of money, or quantity of provisions, at the option of France. The provisions to be delivered at our own ports in any future *defensive* wars. The sum of money, or its value in provisions, ought not to exceed two hundred thousand dollars a year during any such wars. The reciprocal stipulation, on the part of France, may be to furnish annually the like sum of money, or an equivalent in military stores, and clothing for troops, at the option of the United States, to be delivered in the ports of France. Particular caution, however, must be used in discussing this subject, not to admit any claims on the ground of the guaranty in relation to the existing war, as we do not allow that the *casus fœderis* applies to it. And if the war should continue after your arrival in France, and the question of the guaranty should not be mentioned on her part, you may yourselves, be silent on the subject, if you deem it most prudent. The ports of the United States being frequented by the vessels of different belligerent powers, it became necessary to regulate the times of their sailing. The President, therefore, adopted what was understood to be the received rule in Europe, and ordered, that after the sailing of a vessel of one of the belligerent powers, twenty-four hours should elapse before an armed vessel of the enemy of the former should set sail. This rule has been duly respected by the armed vessels of France and Great Britain.

On the supposition, that a treaty will be negotiated to alter and amend the treaties, which now exist between France and the United States, the following leading principles, to govern the negotiation, are subjoined; that no aid be stipulated in favor of France during the present war. That no engagement be made inconsistent with the obligations of any prior treaty. That no stipulation be made under colour of which tribunals can be established within our jurisdiction, or personal privileges claimed by French citizens, incompatible with the complete sovereignty and independence of the United States, in matters of policy commerce and government.

T. PICKERING.

87. *From the Secretary of State to Judge Bee.*

Surrender of Thos. Nash, alias Jonathan Robbins, a British Subject, charged with Mutiny. Department of State, Philadelphia, June 3d, 1799.—Sir, Mr Liston, the minister of his Britannic majesty, has requested, that Thomas Nash, who was a seaman on board the British frigate *Hermoine*, and who he is informed is now a prisoner in the jail of Charleston, should be delivered up. I have stated the matter to the President of the United States. He considers an offence committed on board a public ship of war, on the high seas, to have been committed within the jurisdiction of the nation to whom the ship belongs. Nash, is charged, it is understood, with piracy and murder, committed by him, on board the abovementioned British frigate, on the high seas, and consequently “within the jurisdiction” of his Britannic majesty; and therefore, by the 27th article of the treaty of amity with Great Britain, Nash ought to be delivered up, as requested by the British minister, provided such evidence of his criminality be produced, as by the laws of the United States, or of South Carolina, would justify his apprehension and commitment for trial, if the offence has been committed within the jurisdiction of the

United States. The President has in consequence hereof authorized me to communicate to you "his advice and request" that Thomas Nash may be delivered up to the Consul or other agent of Great Britain, who shall appear to receive him.

I have the honor to be, &c.

TIMOTHY PICKERING.

The Honorable Thomas Bee, Esq. judge of the district of South Carolina.

NOTE. Nash was, according to this request, delivered up to the British authorities.

88. *From the Secretary of State, J. Madison, to J. Monroe, at London.*

Right of Search—Impressment. Extract.

Washington, January 5, 1804. We consider a neutral flag, on the high seas, a safeguard to those sailing under it. Great Britain, on the contrary, asserts a right to search for, and seize her own subjects; and under that cover, as cannot but happen, are often seized and taken off, citizens of the United States, and citizens or subjects of other neutral countries, navigating the high seas, under the protection of the American flag.

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

Although Great Britain has not yet adopted, in the same latitude with most other nations, the immunities of a neutral flag, she will not deny the general freedom of the high seas, and of neutral vessels navigating them, with such exceptions only as are annexed to it by the law of nations. She must produce then such an exception in the law of nations, in favor of the right she contends for. But in what written and received authority will she find it? In what usage except her own will it be found? She will find in both, that a neutral vessel does not protect certain objects denominated contraband of war, including enemies serving in the war, nor articles going into a blockaded port, nor, as she has maintained, and as we have not contested, enemy's property of any kind. But no where will she find an exception to this freedom of the seas, and of neutral flag, which justifies the taking away of any person, not an enemy, in military service, found on board a neutral vessel.

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

89. *Mr Madison, Secretary of State, to Mr Monroe, at London.*

British East and West India Commerce.—Admission of Consuls. Extract.

Washington, March 5th, 1804. The treaty of 1794, so far as it relates to commerce, having expired on the 1st day of October last, (that being the date of the preliminary articles) the commercial intercourse between the two countries is left to the regulations which the parties separately may think fit to establish. It

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

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

90. *Mr Madison to Messrs. Monroe and Pinckney, at London.*

Blockades. Extract. Department of State, February 3, 1807.

Sir, On this subject, it is fortunate that G. Britain has already, in a formal communication, admitted the principle for which we contend. It will be only necessary, therefore, to hold her to the true sense of her own act. The words of the communication are, "that vessels must be *warned* not to enter." The term *warn*, technically imports a distinction between an individual notice to vessels, and a general notice by proclamation, or diplomatic communication; and the terms *not to enter*, equally distinguishes a notice at, or very near, the blockaded port, from a notice directed against the original destination or the apparent intention of a vessel, no-wise approaching such a port.

Marginal Jurisdiction on the High Seas.

There could surely be no pretext for allowing less than a marine league from the shore, that being the narrowest allowance found in any authorities on the law:

of nations. If any nation can fairly claim a greater extent, the United States have pleas which cannot be rejected; and if any nation is more particularly bound by its own example not to contest our claim, Great Britain must be so by the extent of her own claims to jurisdiction on the seas which surround her. It is hoped, at least, that within the extent of one league you will be able to obtain an effectual prohibition of British ships of war from repeating the irregularities which have so much vexed our commerce, and provoked the public resentment; and against which an article in your instructions emphatically provides. It cannot be too earnestly pressed on the British government, that in applying the remedy copied from regulations heretofore enforced against a violation of the neutral rights of British harbours and coasts, nothing more will be done than what is essential to the preservation of harmony between the two nations.

91. *Mr Madison to Mr Thornton, British Chargé des Affaires.*

Blockades.

Department of State, October 27, 1803. Sir, It will not escape your attention, that commodore Hood's letter is dated no less than three months before it could have the effect of a notification, [of Blockade] and that besides this remarkable delay, the alleged blockade is computed from a date more than one month prior to that of the letter itself. But these circumstances, however important it may be, do not constitute the main objection to the proceeding of the British commander.— His letter, instead of stating that a particular port or ports were blockaded, by a force actually before them, declares, generally, two entire and considerable islands to be in a state of blockade. It can never be admitted that the trade of a neutral nation in articles not contraband can be legally obstructed to any place not actually blockaded, or that any notification or proclamation can be of force, unless accompanied with an actual blockade. The law of nations is perhaps more clear on no other point than of that of a seige or blockade, such as will justify a belligerent nation in restraining the trade of neutrals. Every term, used in defining the case, imports the presence and position of a force, rendering access to the prohibited place manifestly difficult and dangerous. Every jurist of reputation, who treats with precision this branch of the law of nations, refers to an actual and particular blockade. Not a single treaty can be found which undertakes to define a blockade, in which the definition does not exclude a general or nominal blockade, by limiting it to the case of a sufficient force so disposed as to amount to an actual and particular blockade. To a number of such treaties Great Britain is a party. Not to multiply references on the subject, I confine myself to the fourth article of the convention, of June, 1801, between Great Britain and Russia, which having been entered into for the avowed purpose "*of settling an invariable determination of their principles upon the rights of neutrality,*" must necessarily be considered as a solemn recognition of an existing and general principle and right, not as a stipulation of any new principle or right limited to the parties themselves. The article is in the words following: "That in order to determine what characterizes a blockaded port, that denomination is given only to a port where there is, by the dispositions of the power which attacks it with ships stationary or sufficiently near, an evident danger of entering." It cannot be necessary to dwell on the inconsistency of the kind of blockade declared by commodore Hood, with the principle laid down concerning the rights of neu-

trality; or on the consequences of the principle on which a blockade of whole islands by a few ships is founded, to the commerce and interests of neutral nations.

If the islands of Martinique and Guadaloupe,* the latter not less than two hundred and fifty, and the former nearly one hundred and fifty miles in circumference, and each containing a variety of ports, can be blockaded by detachments from a commodore's squadron, it is evident that a very inconsiderable portion of the British fleet may blockade all the maritime countries with which she is at war. In a word such a principle completely sacrifices the rights of neutral commerce to the pleasure or the policy of the parties at war. But it deserves to be particularly remarked, that a power, to proclaim general blockades, or any blockade not formed by the real presence of a sufficient force, to be exercised by officers at a distance from the control of their government, and deeply interested in enlarging the field of captures which they are to share, offers a temptation that must often aggravate the evils incident to the principle itself. You will infer, sir, from these observations, the serious light in which the President regards the proceeding which is the subject of them; and will perceive the grounds on which the injuries accruing from it to our commerce, will constitute just claims of indemnification from the British government. To diminish the extent of these injuries as much as possible, and to guard the good understanding and friendly relations of every sort which are so desirable to both nations, against the tendency of such measures, will, I venture to assure myself, be sufficient motive with you to employ the interpositions with commodore Hood, which you may judge best adapted to the nature of the case. I have the honor to be, &c.

JAMES MADISON.

Edward Thornton, Esq. &c. &c. &c.

92. *Mr Smith to Mr Pinkney, at London.*⁷

Paper Blockades.

Department of State, July 19, 1810. Sir From the complexion of the British prints not to mention other considerations, the paper blockades may not be abandoned. There is hence a prospect that the United States may be brought to issue with Great Britain on the legality of such blockades. In such case, as it cannot be expected that the United States, founded as they are in law and in right, can acquiesce in the validity of the British practice; it lies with the British government to remove the difficulty. In addition to the considerations heretofore stated to you in former letters, you may bring to the view of the British government the retrospective operation of those diplomatic notifications of blockades, which consider a notice to the minister as a notice to his government, and to the merchants, who are at a distance of three thousand miles. It will recur to your recollection, that the present ministry, in the debates of parliament, in opposition to the authors of the orders of January, 1807, denied that they were warranted by the law of nations. The analogy between these orders and the blockade of May, 1806, in so far as both relate to a trade between enemy ports, furnishes an appeal to the consistency of those now in office, and an answer to attempts by them to vindicate the legality of that blockade.

* NOTE—Extract. Brit. Adm. Office, Jan. 5, 1804. Sir, I have their lordships' commands to acquaint you, that they have sent orders to Com. Hood, not to consider any blockade of Martinique and Guadaloupe, as existing, unless in respect of particular ports which may be actually invested, and then not to capture vessels bound to such ports, unless they shall previously have been warned not to enter them. I am, &c. E. NEPEAN. G. Hammond, Esq.

You may refer the British government to the characteristic definition of a blockaded port, as set forth in their treaty with Russia, of June, 1801, the preamble of which declares, that one of its objects was to settle "an invariable determination of their principles upon the *rights of neutrality*."

Should the British government unexpectedly resort to the pretext of an acquiescence on the part of the United States in their practice, it may be remarked, that prior to, as well as during the present administration, this government has invariably protested against such pretensions; and in addition to other instances heretofore communicated to you, I herewith transmit to you an extract of a letter to the department of state, of July 15, 1799, from Mr King, our minister at London, and also such part of Mr Marshall's letter to him, of the 20th September, 1800, as relates to the subject of blockades. And it may moreover be urged, that the principle now contended for by the United States was maintained against others, as well as Great Britain, as appears from the accompanying copy of the letter to our minister at Madrid in the year 1801. To this principle the United States also adhered when a belligerent, as in the case of the blockade of Tripoli, as will be seen by the annexed letter from the navy department. You will press on the justice, friendship and policy of Great Britain, such a course of proceeding as will obviate the dilemma resulting to the United States from a refusal to put an end to the paper blockades, as well as the orders in council. I have the honour to be, &c. R. SMITH.

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

93. *Extract of a letter from Mr King to Lord Grenville.*

Interpretation of the law of Blockade.

Downing Street, London, May 23, 1799. It seems scarcely necessary to observe, that the presence of a competent force is essential to constitute a blockade; and although it is usual for the belligerent to give notice to neutral nations when he institutes a blockade, it is not customary to give any notice of its discontinuance; and that, consequently, the presence of the blockading force is the natural criterion by which the neutral is enabled to ascertain the existence of the blockade; in like manner as the actual investment of a besieged place is the only evidence by which we decide whether the seige is continued or raised. A seige may be commenced, raised, recommenced, and raised again, but its existence at any precise time must always depend upon the fact of the presence of an investing army. This interpretation of the law of blockade is of peculiar importance to nations situated at a great distance from each other, and between whom a considerable length of time is necessary to send and receive information.

94. *Mr Marshall, Secretary of State, to Mr King, at London.*

Principle of Blockade.

September 20, 1800. 2ndly. The right to confiscate vessels bound to a blockaded port, has been unreasonably extended to cases not coming within the rule, as heretofore adopted.

On principle it might well be questioned, whether this rule can be applied to a place not completely invested by land as well as by sea. If we examine the reasoning on which is founded the right to intercept and confiscate supplies designed for a blockaded town, it will be difficult to resist the conviction, that its extension to towns invested by sea only is an unjustifiable encroachment on the rights of neutrals. But it is not of this departure from principle, a departure which has

received some sanction from practice, that we mean to complain. It is, that ports, not effectually blockaded by a force capable of completely investing them, have yet been in a state of blockade, and vessels attempting to enter therein have been seized, and on that account confiscated.

This is a vexation proceeding directly from the government, and which may be carried, if not resisted, to a very injurious extent. Our merchants have greatly complained of it with respect to Cadiz and the ports of Holland.

If the effectiveness of the blockade be dispensed with, then every port of all the belligerent powers may, at all times, be declared in that state, and the commerce of neutrals be thereby subjected to universal capture. But if this principle be strictly adhered to, the capacity to blockade will be limited by the naval force of the belligerent, and, of consequence, the mischief to neutral commerce cannot be very extensive. It is, therefore, of the last importance to neutrals, that this principle be maintained unimpaired.

I observe that you have pressed this reasoning on the British minister, who replies, that an occasional absence of a fleet from a blockaded port ought not to change the state of the place.

Whatever force this observation may be entitled to, where that occasional absence has been produced by accident, as a storm, which for a moment blows off the the fleet, and forces it from its station, which station it immediately resumes, I am persuaded, that where a part of the fleet is applied, though only for a time, to other objects, or comes into port, the very principle, requiring an effective blockade, which is, that the mischief can then only be co-extensive with the naval force of the belligerent, requires, that during such temporary absence the commerce of neutrals to the place should be free."

95. *Mr Smith, Secretary of the Navy, to Commodore Preble.*

What characterizes a Blockade. Extract.

Navy Department, Feb. 4, 1804. Sir, I am charged by the President to state to you, *what*, in his opinion, *characterizes a blockade*. I have, therefore, to inform you, that the trade of a neutral, in articles not contraband, cannot be rightfully obstructed to any port, not actually blockaded by a force so disposed before it, as to create an evident danger of entering it. Whenever, therefore, you shall have thus formed a blockade of the port of Tripoli, you will have a right to prevent any vessel from entering it, and to capture for adjudication, any vessel that shall attempt to enter the same, with a knowledge of the existence of the blockade. You will however, not take as prize any vessel, attempting to enter the port of Tripoli, without such knowledge; but in every case of an attempt to enter, without a previous knowledge of the existence of the blockade, you will give the commanding officer of such vessel *notice* of such blockade, and forewarn him from entering.—And if, after such a notification, such vessel should again attempt to enter the same port, you will be justifiable in sending her into port for adjudication. You will, sir, hence perceive that you are to consider your circular communication to the neutral powers, not as an evidence that every person attempting to enter has previous knowledge of the blockade, but merely as a friendly notification to them of the blockade, in order that they might make the necessary arrangements for the discontinuance of all commerce with such blockaded ports.

Commodore Preble.

I am, &c. &c.

R. SMITH.

96. *James Madison to Messrs. Livingston & Monroe, at Paris.*

From the Instructions for the Purchase of the Territory of Louisiana. Extract.

Washington, March 2, 1803. If, France shall inflexibly insist on an express recognition to the above effect, (to wit: the right to exclude all nations, other than the United States, from navigating the Mississippi,) it will be better to acquiesce in it, than to lose the opportunity of fixing an arrangement, in other respects satisfactory; taking care to put the recognition into a form, not inconsistent with our treaties with Great Britain, or with an explanatory article, that may not improbably be desired by her."—"It is hoped that the idea of a guaranty of the country West of the Mississippi reserved to France may not be brought into the negotiation. Should France propose such a stipulation, it will be expedient to evade it, if possible, as more likely to be a source of disagreeable questions between the parties concerning the actual *casus fœderis*, than of real advantage to France. There will be less reason in the demand of such an article, as the United States would set little value on a guaranty of any part of their territory, and consequently there would be no just reciprocity in it. Should France, notwithstanding these considerations, make a guaranty an essential point, it will be *better to accede to it*, than to *abandon* the object of the negotiation, mitigating the evil, as much as possible, by requiring for the *casus fœderis* a great and manifest danger, threatened to the territory guaranteed, and by substituting for an indefinite succour, or even a definite succour, in military force a fixed sum of money payable at the Treasury of the United States."—"The instructions, thus far given, suppose that France may be willing to cede to the United States the whole of the Island of New Orleans and both the Floridas. As she may be inclined to dispose of a part or parts, and of such only, it is proper for you to know, that the Floridas, together, are estimated at one fourth the value of the whole Island of New Orleans, and East Florida at half that of West Florida. In case of a partial cession, it is expected that the regulations of every other kind, so far as they are onerous to the United States, will be more favourably modified."

97. *Mr Livingston to the Secretary of State, on the Louisiana Purchase.*

Disclosure of the Conversations. Extract.

Paris, April 11, 1803.—M. Talleyrand asked me this day, when pressing the subject, whether we wished to have the whole of Louisiana. I told him no; that our wishes extended only to New Orleans and the Floridas, that the policy of France, however, should dictate.—He said, that if they gave New Orleans, the rest would be of little value, and that he would wish to know, '*what we would give for the whole?*' I told him it was a subject I had not thought upon, but I supposed we should not object to *twenty millions*, provided our citizens were paid. He told me this was too low an offer—that he would be glad, I would reflect upon it and tell him to-morrow. I told him that, as Mr Monroe would be in town in two days, I would delay any further offer, until I had the pleasure of introducing him.

Paris, April 13, 1803. While we were taking coffee, the Minister [of the Treasury, Marbois,] came in, and after being some time in the room, we strolled into the next room, when he told me, he heard that I had been at his house two days before, when he was at St. Cloud; that he thought I might have something particular to say to him, and had taken the first opportunity to call on

me. I saw that this was meant as an opening to one of those free conversations, which I had frequently had with him. I accordingly began on the subject of the debt, and related to him the extraordinary conduct of the minister, &c. He told me, that this led to something important, that had been cursorily mentioned to him at St. Cloud, but as my house was full of company, he thought I had better call upon him any time before eleven that night. He went away, and a little after, when Mr Monroe took leave, I followed him, he told me he wished me to repeat, what I had said relative to M. Talleyrand's requesting a proposition from me, as to the purchase of Louisiana. I did so, and concluded with the extreme absurdity of his evasions of that day, and stated the consequence of any delay on this subject, as it would enable Britain to take possession, who would readily relinquish it to us. He said that this proceeded upon a supposition of her making so successful a war, as to be enabled to retain her conquests. I told him that it was probable, that the same idea might suggest itself to the United States, in which case, it would be their interest to contribute to render her successful, and I asked whether it was prudent to throw us into her scale? This led to long discussions of no moment to repeat; we returned to the point; he said that, what I had told him, led him to think, that what the Consul had said to him on Sunday at St. Cloud (the day on which, as I told you, the determination had been taken to sell) had more of earnest than he thought at the time; that the Consul had asked him what news from England? as he knew he read the papers attentively: he told him that he had seen in the London papers the proposition for raising 50,000 men to take New Orleans; the Consul said, he had seen it too, and had also seen, that something was said about 2,000,000 of dollars being to be disposed of among the people about him to bribe them, &c. and then left him; that afterwards, when walking in the garden, the Consul came again to him, and spoke to him about the troubles, that were excited in America, and enquired how far I was satisfied with this last note." "He (Marbois) then took occasion to mention his sorrow that any cause of difference should exist between our countries. The Consul told him in reply, 'Well you have the charge of the treasury, let them give you *one hundred millions*, and *pay their own claims* and take the whole country.' Seeing by my looks, that I was surprised at so extravagant a demand, he added that he considered the demand as exorbitant, and had told the first Consul that the thing was impossible; that we had not the means of raising that. The Consul told him, we might borrow it. I now plainly saw the whole business—first the Consul was disposed to sell; next he distrusted Talleyrand on account of the business of the supposed intention to bribe, and meant to put the negotiation into the hands of Marbois, whose character for integrity is established. I told him that the United States were anxious to preserve peace with France, that for that reason they wished to remove them to the west side of the Mississippi, that we would be perfectly satisfied with New Orleans and the Floridas, and had no disposition to extend across the river, that of course we would not give any great sum for the purchase, that he was right in his idea of the extreme exorbitancy of the demand, which would not fall short of one hundred and twenty-five millions, that, however, we would be ready to purchase, provided the sum was reduced to reasonable limits; he then pressed me to name the sum. I told him that this was not worth while, because as he only treated the enquiry as a matter of curiosity, any

declarations of mine would have no effect. If a negociation was to be opened, we should, Mr Monroe and myself, make the offer, after mature reflection. This compelled him to declare, that though he was not authorized expressly to make the inquiry from me, yet, that, if I would mention any sum, that came near the mark, that could be accepted, he would communicate it to the First Consul. I told him we had no sort of authority to go to a sum, that bore any proportion to what he mentioned, but that as he, himself, considered the demand as too high, he would oblige me by telling me, what he thought would be reasonable; he replied, that if I would name *sixty millions*, and take upon us the American claims to the amount of *twenty* more, he would try how far it would be accepted. I told him that it was in vain to ask any thing, that was so greatly beyond our means; that true policy would dictate to the First Consul not to press such a demand; that he must know, that it would render the present government unpopular, and have a tendency, at the next election, to throw the power into the hands of men, who were hostile to a connexion with France, and that this would probably happen in the midst of a war. I asked him, whether the few millions acquired at this expense would not be too dearly bought? He frankly confessed, that he was of my sentiments, but that he feared the Consul would not relax. I asked him to press this argument upon him, together with the danger of seeing the country pass into the hands of Britain. I told him that he had seen the ardour of the Americans to take it by force, and the difficulty, with which they were restrained by the prudence of the President—that he must easily see how much the hands of the war party would be strengthened, when they learned that France was upon the eve of a rupture with England; he admitted the weight of all this, ‘but,’ says he, ‘you know the temper of a youthful conqueror; every thing he does is as rapid as lightning; we have only to speak to him, as opportunity presents itself, perhaps in a crowd, when he bears no contradiction. When I am alone with him, I can speak more freely, and he attends; but this opportunity seldom happens, and is always accidental; try then, if you cannot come up to my mark, consider the extent of the country, the exclusive navigation of the river, and the importance of having no neighbour to dispute you—no war to dread.’ I told him that I had considered all these as important considerations, but, there was a point beyond which we could not go, and that fell far short of the sum he mentioned.”

Paris, April 17, 1803. On waiting upon the minister, we found M. Marbois there, who told me that he had come to communicate to the minister what had passed between us, and that he greatly regretted the not being able to bring us to such an offer as he might mention to the first Consul. We were very graciously received by the minister, whom I pressed to obtain, as early a day as possible, for the reception of Mr Monroe, as time pressed, and we were anxious to conclude our business, for reasons arising out of the present disturbed state of America—he told me, he would speak to the first Consul that night on the subject, and that he hoped some person would be appointed to treat with us, even before Mr Monroe was presented. After a little general conversation, we took leave in expectation, that Mr Monroe would be presented this day, (Sunday) being a day of reception for the civil officers of the government.

The next day, Mr Monroe and myself, after spending some time in consultation, determined to offer 50 millions, including our debts, but presumed it would be best only to mention 40 in the first instance; this I accordingly did. In a conference I had the 15th, with M. Marbois, he expressed great sorrow, that we could not go beyond that sum, because he was sure that it would not be accepted, and that, perhaps, the whole business would be defeated; which he the more feared, as he had just received a note from the minister, indicative of the Consul's not being quite pleased, that he had so greatly lowered his original proposition. He said that he saw our situation, and he knew there was a point beyond which we could not go, with safety to ourselves or the President; but he wished us to advance to that point. He said that he would, if I wished, go that very day to St. Cloud, and let me know the result. I reminded him of the Consul's promise to pay the debt. I placed in a stronger light his personal obligation on this subject, and desired him to urge it as an additional reason to conclude an agreement, which would facilitate the means of doing it. The next morning, which was yesterday, I again called to see him, he told me that he had been to St. Cloud—that the Consul received his proposition very coldly, and that I might consider the business no longer in his hands, since he had given him no further powers—that he had urged the Consul's promise, relative to the debt, which he admitted, but said, at the same time, he did not think it had exceeded three millions, though my letter expressly mentioned twenty. He expressed great sorrow upon the occasion, and advised me to press M. Talleyrand to present Mr Monroe the next day, (that is this day) that he hoped, that if the Consul saw me, as he had a very particular esteem for me, that he would renew the subject with me himself.

Paris, May 13, 1803. Extract. We found, as we advanced in the negotiation, that M. Marbois was absolutely restricted to the disposition of the whole, that he would treat for no less portion, and, of course, that it was useless to urge it. On mature consideration, therefore, we finally concluded a treaty on *the best terms* we could obtain for *the whole*.*

By this measure we have sought to carry into effect, to the utmost of our power, the wise and benevolent policy of our government, on the principles laid down in our instructions. The possession of the left bank of the river, had it been attainable alone, would, it is true, have accomplished much in that respect; but it is equally true, that it would have left much still to accomplish. By it our people would have had an outlet to the ocean, in which no power would have a right to disturb them; but while the other bank remained in possession of a foreign power, circumstances might occur to make the neighbourhood of such power highly injurious to us in many of our most important concerns. A divided jurisdiction over the river might beget jealousies, discontents and dissensions, which the wisest policy on our part could not prevent or control. With a train of colonial governments established along the western bank, from the entrance of the river far into the interior, under the command of the military men, it would be difficult to preserve that state of things, which would be necessary to the peace and tranquillity of our country. A single act of a capricious, unfriendly or unprincipled

* See treaty, vol. 1. page 84.

subaltern, might wound our best interests, violate our most unquestionable rights, and involve us in war. But by this acquisition, which comprises within our limits, this great river and all the streams, that empty into it from their sources to the ocean, the apprehension of these disasters is banished, for ages, from the United States. We adjust by it the only remaining known cause of variance with this very powerful nation: we anticipate the discontent of the great rival of France, who would probably have been wounded at any stipulation of a permanent nature, which favored the latter, and which it would have been difficult to avoid, had she retained the right bank. We cease to have a motive of urgency, at least, for inclining to one power to avert the unjust pressure of another. We separate ourselves in a great measure from the European world and its concerns, especially its wars, and intrigues; we make, in fine, a great stride to real and substantial independence, the good effect whereof will, we trust, be felt essentially and extensively in all our foreign and domestic relations. Without exciting the apprehensions of any power, we take a more imposing attitude with respect to all. The bond of our union will be strengthened, and its movements become more harmonious by the increased parity of interest, which it will communicate to the several parts, which compose it.

In deliberating on this subject in a financial view, we were strongly impressed with the idea, that while we had only a right of deposit, or, indeed while the right bank remained in the possession of a foreign power, it was always to be expected that we should at some time or other, be involved in war on questions, resulting from that cause. We were well satisfied, that any war would cost us more than hereby is stipulated to be given for this territory; that none could produce a more favorable result, while it might especially in the present disturbed state of the world, prove the ruin of our affairs.

There were other considerations which, though of minor importance, had nevertheless their due weight in our decision on this great question. If France or any other power holding the right bank of the river, imposed lighter duties than comport with the revenue system of the United States, supposing even that we had acquired the left bank, all the supplies destined for our extensive and populous settlements on the other side, would be smuggled in through that channel, and our revenue, thereby, considerably diminished. Should such power open offices for the sale of lands on the western bank, our population might be drained to the advantage of that power, the price of our lands be diminished, and their sale prevented. But by the possession of both banks, these evils are averted.

Louisiana was acquired of Spain by France in exchange for Tuscany, which latter is settled by treaty on the son in law of the king of Spain, with the title of king of Etruria, and was estimated in the exchange, in consideration of its revenue, at 100,000,000 francs. The First Consul thought he had made an advantageous bargain in that exchange, as appears from the high idea, which he entertained of its value, as shown on many occasions. Louisiana was the territory, which he promised in his proclamation at the peace as an asylum to those, who had become unfortunate by the revolution, and which he spoke of as vast and fertile. When he made up his mind to offer the cession of it to the United States, it was contemplated to ask for it 100,000,000 exclusive of the debts, they owed to our citizens, which

they proposed, we should also pay, with a perpetual exemption from foreign duties on the manufactures, productions and vessels in France and Spain in the ports of the ceded territory. From that demand, however, in respect to the sum he receded under the deliberation of his own cabinet; for the first proposition, which M. Marbois made to us was, that we should pay 80 millions. Sixty of which in cash, the balance to our citizens, the whole in one year in Paris, with a perpetual exemption from foreign duties as above. The modification in the mode of payment, that is by stock, for from the quantum he never would depart, and the limitation of the term of the duties to twelve years, with the proviso annexed to it, which was introduced into the treaty, with every other change from this project, was the effect of the negotiation and accommodation, in which we experienced on his part and that of his government, a promptitude and candor, which were highly grateful to us.

R. R. LIVINGSTON, JAMES MONROE.

98. *Mr Erskine Arrangement.*

From Mr Canning's Instructions to Mr Erskine. Extract.

London, Jan. 23, 1809. From the reports of your conversations with Mr Madison, Mr. Smith, and Mr. Gallatin, it appears, 1st, That the American government is prepared, in the event of his Majesty's consenting to withdraw the orders in council, of January and November 1807, to withdraw, contemporaneously, on its part, the interdiction of its harbours to ships of war, and all nonintercourse and nonimportation acts, so far as respects Great Britain, leaving them in force with respect to France, and the powers which adopt or act under her decrees. 2dly, What is of the utmost importance, as precluding a new source of misunderstanding, which might arise after the adjustment of the other questions, that America is willing to renounce, during the present war, the pretension of carrying on, in time of war, all trade with the enemies' colonies, from which she was excluded during peace. 3dly, Great Britain for the purpose of securing the operation of the embargo, and of the bona fide intention of America to prevent her citizens from trading with France, and the powers adopting and acting under the French decrees, is to be considered as being at liberty to capture all such American vessels as may be found attempting to trade with the ports of any of those powers; without which security for the observance of the embargo, the raising of it nominally, with respect to Great Britain alone would in fact raise it with respect to all the world. On these conditions, his majesty would consent to withdraw the orders in council, of January and November 1807, so far as respect America."—"Upon receiving through you, on the part of the American government, a distinct and official recognition of the three above mentioned conditions, his majesty will lose no time in sending to America a minister, fully empowered to consign them to a formal and regular treaty."—"Upon the receipt here of an official note, containing an engagement for the adoption, by the American government, of the three conditions above specified, his majesty will be prepared, on the faith of such engagement, either immediately, (if the repeal shall have been immediate in America) on any day specified by the American government for that repeal, reciprocally to recall the orders in council, without waiting for the conclusion of a treaty. And you are authorized, in the circumstances herein described, to take such reciprocal engagement on his majesty's behalf."

Apology for deviating from Instructions.

Washington Aug. 10, 1809. Nothing could have induced me to have deviated, in the slightest degree, from the orders I had received, but a thorough conviction upon my mind, that by so doing, to a certain extent, I should accomplish the object which his majesty had in view, when, by too strictly adhering to the letter of my instructions, I might lose the opportunity of promoting essentially his majesty's wishes and interest."

99. *Mr Jackson to Mr Smith.*

On Mr Erskine's Instructions. Extract.

Washington, October 11, 1809. "It was not known, when I left England, whether Mr Erskine had, according to the liberty allowed him, communicated to you, in extenso, his original instructions. It now appears that he did not. But in reverting to his official correspondence and particularly to a despatch addressed on the 20th of April to his Majesty's secretary of state for foreign affairs, I find that he there states, that he had submitted to your consideration the three conditions, specified in those instructions as the ground work of an arrangement, which, according to information received from this country, it was thought [in England might be made with a prospect of great mutual advantage. Mr Erskine there reports *verbatim et seriatim* your observations upon each of the three conditions, and the reasons, which induced you to think, that others might be substituted in lieu of them. It may have been concluded between you, that these latter were an equivalent for the original conditions, but the very act of substitution evidently shows, that those original conditions were in fact very explicitly communicated to you, and by you of course laid before the President for his consideration. I need hardly add, that the difference between these conditions, and those contained in the arrangement of the 18th and 19th of April, is sufficiently obvious to require no elucidation, nor need I draw the conclusion, which I consider as admitted by all absence of complaint on the part of the American government; viz, that under such circumstances his majesty had an undoubted and incontrovertible right to disavow the act of his minister. I must here allude to a supposition, which you have more than once mentioned to me, and by which, if it had any the slightest foundation, this right might perhaps have been in some degree affected. You have informed me that you understood that Mr Erskine had *two sets of instructions* by which to regulate his conduct, and that upon one of them, which had not been communicated either to you or to the public, was to be rested the justification of the terms finally agreed upon between you and him. It is my duty, sir, solemnly to declare to you, and through you to the President, that the despatch from Mr Canning to Mr Erskine, which you have made the basis of an official correspondence with the latter minister, and which was read by the former to the American minister in London, is the only despatch by which the conditions were prescribed to Mr Erskine for the conclusion of an arrangement with this country on the matter to which it relates."

100. *Mr Jackson to Mr Smith.*

His Vindication. Extract.

Washington Nov. 4, 1809. I am concerned, Sir, to be obliged a second time to appeal to those principles of public law, under the sanction and protection of

which I was sent to this country. Where there is not freedom of communication in the form substituted for the more usual one of verbal discussion, there can be little useful intercourse between ministers; and one, at least of the epithets, which you have thought proper to apply to my last letter, is such as necessarily abridges that freedom. That any thing therein contained, may be irrelevant to the subject. it is of course competent in you to endeavour to show, and, as far as you succeed in so doing, in so far will my argument lose its validity; but as to the propriety of my allusions, you must allow me to acknowledge only the decision of my own sovereign, whose commands I obey, and to whom alone, I can consider myself responsible. Beyond this, it suffices that I do not deviate from the respect due to the government, to which I am accredited.

You will find that in my correspondence with you, I have carefully avoided drawing conclusions that did not necessarily follow from the premises advanced by me, and, last of all, should I think of uttering an insinuation where I was unable to substantiate a fact. To facts, such as I have become acquainted with them, I have scrupulously adhered, and in so doing, I must continue, wherever the good faith of his Majesty's government is called in question, to vindicate its honor and dignity, in the manner that appears to me the best calculated for that purpose.

101. *Mr Smith to Mr Jackson.*

Close of Negotiation. Extract.

Washington, Nov. 8, 1809. In my letter of the 19th ult. I stated to you, that the declaration in your letter of the 11th, that the despatch from Mr. Canning to Mr. Erskine of the 23d January, was the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it related, was then for the first time made to this government; and it was added, that if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it, were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made.

In my letter of the 1st instant, adverting to the repetition in your letter of the 23d ultimo, of a language implying a knowledge of this government that the instructions of your predecessor did not authorize the arrangement formed by him, an intimation was distinctly given to you, that after the explicit and peremptory asseveration that this government had not any knowledge, and that with such a knowledge, such an arrangement would not have been made, no such insinuation could be admitted by this government.

Finding that in your reply of the 4th instant, you have used a language, which cannot be understood, but as reiterating and even aggravating the same gross insinuation, it only remains, in order to preclude opportunities, which are thus abused, to inform you that no further communications will be received from you, and that the necessity of this determination will, without delay, be made known to your government. In the mean time, a ready attention will be given to any communications affecting the interests of the two nations through any other channel that may be substituted."

I am, &c. &c. &c. R. SMITH.

102. *Berlin Decree of Nov. 21, 1806. (French.)*

Imperial Camp, Berlin, Nov. 21, 1806. Napoleon, emperor of the French, and king of Italy, considering:

1. That England does not admit the right of nations, as universally acknowledged by all civilized people:
2. That she declares as an enemy every individual belonging to an enemy state, and, in consequence, makes prisoners of war, not only of the crews of *armed* vessels, but also of *merchant* vessels, and even the supercargoes of the same:
3. That she extends or applies to merchant vessels, to articles of commerce, and to the property of individuals, the right of conquest, which can only be applied or extended to what belongs to an enemy state:
4. That she extends to ports not fortified, to harbours, and mouths of rivers, *the right of blockade*, which, according to reason and the usage of civilized nations, is applicable only to strong or fortified ports:
5. That she declares blockaded places before which she has not a single vessel of war, although a place ought not to be considered blockaded, but when it is so invested as that no approach to it can be made, without imminent hazard; that she declares even places blockaded, which her united forces would be incapable of doing, such as entire coasts and a whole empire:
6. That this unequalled abuse of right of blockade has no other object than to interrupt the communications of different nations, and to extend the commerce and industry of England upon the ruin of those of the continent—
7. That this being the evident design of England, whoever deals on the continent in English merchandise favours that design, and becomes an accomplice—
8. That this conduct in England (worthy only of the first ages of barbarism) has benefitted her to the detriment of other nations—
9. That it being right to oppose to an enemy the same arms she makes use of, to combat as she does, when all ideas of justice, and every liberal sentiment (the result of civilization among men) are disregarded—

We have resolved to enforce against England the usages which she has consecrated in her maritime code,

The present decree shall be considered as the fundamental law of the empire, until England has acknowledged that *the rights of war* are the same on land as at sea; that it cannot be extended to any private property whatever, nor to persons who are not military, and until the right of blockade be restrained to fortified places, actually invested by competent forces.

103. *Orders in Council of Nov. 11, 1807. (English.)*

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

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

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

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

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

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

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

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

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

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

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

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

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

And the right honorable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judges of the high court of admiralty and courts of vice-admiralty, are to take the necessary measures herein, as to them shall respective appertain.

W. FAWKENER.

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

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

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

His majesty, by and with the advice of his privy council, is therefore pleased to order, and it is hereby ordered, that all goods, wares, or merchandizes, specified and included in the schedule of an act, passed in the forty-third year of his present majesty's reign, intituled "An act to repeal the duties of customs payable in Great Britain, and to grant other duties in lieu thereof," may be imported from any port or place, belonging to any state not at amity with his majesty, in ships belonging to any state at amity with his majesty, subject to the payment of such duties, and liable to such drawbacks as are now established by law upon the

importation of the said goods, wares, or merchandise, in ships navigated according to law; and with respect to such of the said goods, wares, or merchandise, as are authorised to be warehoused under the provisions of an act, passed in the forty-third year of his present majesty's reign, intituled "An act for permitting certain goods imported into Great Britain, to be secured in ware-houses without payment of duty," subject to all the regulations of the said last mentioned act; and with respect to all articles which are prohibited by law from being imported into this country, it is ordered, that the same shall be reported for exportation to any country in amity or alliance with his majesty.

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

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

And the right honorable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judges of the high court of admiralty and courts of vice-admiralty, are to take the necessary measures herein, as to them shall respectively appertain.

W. FAWKENER.

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

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

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

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

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

And the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judges of the high court of admiralty and courts of vice admiralty, are to take the necessary measures herein, as to them shall respectively appertain.

W. FAWKENER.

104. *Milan Decree of Nov. 11, 1807. (French.)*

Rejoinder to his Britannic Majesty's order in Council of November 11th, 1807. At our Royal Palace, at Milan, December 17, 1807.

Napoleon, emperor of the French, King of Italy, and protector of the Rhenish confederacy.

Observing the measures adopted by the British Government, on the 11th of November last, by which vessels belonging to neutral, friendly, or even powers the allies of England, are made liable, not only to be searched by English cruisers, but to be compulsorily detained in England, and to have a tax laid on them of so much per cent. on the cargo, to be regulated by the British legislature;

Observing that by these acts the British government denationalizes ships of every nation in Europe, that it is not competent for any government to detract from its own independence and rights, all the sovereigns of Europe having in trust the sovereignties and independence of the flag; that if by an unpardonable weakness, and which, in the eyes of posterity, would be an indelible stain, such a tyranny was allowed to be established into principles and consecrated by usage, the English would avail themselves of the tolerance of governments to establish the infamous principles, that the flag of a nation does not cover goods, and to give to their right of blockade an arbitrary extension, and which infringes on the sovereignty of every state; we have decreed, and do decree as follows:

ARTICLE I. Every ship, to whatever nation it may belong, that shall have submitted to be searched by an English ship, or to a voyage to England, or that shall have paid any tax whatsoever to the English government, is thereby, and for that alone, declared to be denationalized, to have forfeited the protection of its king, and to have become English property.

ARTICLE II. Whether the ships thus denationalized by the arbitrary measures of the English government, enter into our ports or those of our allies, or whether they fall into the hands of our ships of war, or of our privateers, they are declared to be good and lawful prizes.

ARTICLE III. The British islands are to be declared in a state of blockade, both by sea and land. Every ship, of whatever nation, or whatsoever the nature of its cargo may be, that sails from the ports of England, or those of the English colonies, and of the countries occupied by English troops, and proceeding to England, or to English Colonies, or to countries occupied by English troops, is good and lawful prize, as contrary to the present decree; and may be captured by our ships of war or our privateers, and adjudged to the captor.

ARTICLE IV. These measures, which are resorted to only in just retaliation of the barbarous system adopted by England, which assimilates its legislation to that of Algiers, shall cease to have any effect with respect to all nations who shall have the firmness to compel the English government to respect their flag. They shall continue to be rigorously in force as long as that government does not return to the principle of the law of nations, which regulates the relations of civilized states in a state of war. The provisions of the present decree shall be abrogated and null, in fact, as soon as the English abide again by the principles of the law of nations, which are also the principles of justice and honor.

All our ministers are charged with the execution of the present decree, which shall be inserted in the bulletin of the laws.

By order of the Emperor.

The Secretary of State:

NAPOLEON.
H. B. MARET.

105. *Spanish Decree of Aranjuez, Feb. 19, 1807.*

By the greatest outrage against humanity, and against policy, Spain was forced by Great Britain to take part in the present war. This power has exercised over the sea and over the commerce of the world, an exclusive dominion. Her numerous factories disseminated through all countries are like sponges which imbibe the riches of those (countries) without leaving them more than the appearances of mercantile liberty. From this maritime and commercial despotism, England derives immense resources for carrying on a war, whose object is to de-

stroy the commerce which belongs to each state from its industry and situation. Experience has proved that the morality of the British cabinet has no hesitation as to the means, so long as they lead to the accomplishment of its designs; and whilst this power can continue to enjoy the fruits of its immense traffic, humanity will groan under the weight of a desolating war. To put an end to this, and to attain a solid peace, the emperor of the French and King of Italy issued a decree on the 21st of November last, in which, adopting the principles of reprisals, the blockade of the British isles is determined on; and his ambassador, his excellency Francis de Beauharnois, grand dignitary of the order of the iron crown, of the legion of honor, &c. &c. having communicated this decree to the king our master, and his majesty being desirous to co-operate by means sanctioned by the rights of reciprocity, has been pleased to authorize his most serene highness the prince generalissimo of the marine, to issue a circular of the following tenor.

As soon as England committed the horrible outrage of intercepting the vessels of the royal marine, insidiously violating the good faith with which peace assures individual property and the rights of nations; his majesty considered himself in a state of war with that power, although his royal soul suspended the promulgation of the manifesto until he saw the atrocity committed by its seamen, sanctioned by the government of London. From that time, and without the necessity of warning the inhabitants of these kingdoms of the circumspection with which they ought to conduct themselves towards those of a country which disregards the sacred laws of property and the rights of nations; his majesty made known to his subjects the state of war in which he found himself with that nation. All trade, all commerce is prohibited in such a situation; and no sentiments ought to be entertained toward such an enemy which are not dictated by honor, avoiding all intercourse which might be considered as the vile effect of avarice operating on the subjects of a nation which degrades itself by them.

His majesty is well persuaded that such sentiments of honor are rooted in the hearts of his beloved subjects; but he does not choose on that account to allow the smallest indulgence to the violators of the law, nor permit that, through ignorance, they should be taken by surprise—authorizing me by these presents, to declare that all English property will be confiscated whenever it is found on board a vessel, although a neutral if the consignment belongs to Spanish individuals. So likewise will be confiscated all merchandise which may be met with although it may be in neutral vessels, whenever it is destined for the ports of England or her isles.

And finally his majesty, conforming himself to the ideas of his ally the emperor of the French, declares in his states the same law, which, from principles of reciprocity and suitable respect, his imperial majesty promulgated under date of the 21st November, 1806.

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

God preserve you many years. The Prince Generalissimo of the Marine.
Aranjuez, 19th February, 1807.

106. *Rambouillet, (French) Decree, March 23, 1810.*

Napoleon, &c. &c. &c. Considering that the government of the United States; by an act dated the 1st of March 1809, which forbids the entrance of the ports, harbours, and rivers of the said states, to all French vessels, orders, 1st. that after the 20th of May following, vessels under the French flag, which shall arrive in the United States, shall be seized and confiscated as well as their cargoes: 2d. That after the same epoch, no merchandise or produce, the growth or manufacture of France or her colonies, can be imported into the said United States from any foreign port or place whatsoever, under the penalty of seizure, confiscation, and a fine of three times the value of the merchandise: 3d. That American vessels cannot go to any port of France, of her colonies or dependencies: We have decreed and do decree what follows:

ARTICLE I. All vessels navigating under the flag of the United States, or possessed, in whole or in part, by any citizen or subject of that power, which, counting from the 20th of May, 1809, have entered or shall enter into the ports of our empire, of our colonies, or of the countries occupied by our arms, shall be seized, and the product of the sale shall be deposited in the surplus fund (caisse d'amortissement.)

There shall be excepted from this regulation, the vessels which shall be charged with despatches, or with commissions of the government of the said states, and who shall not have either cargoes or merchandise on board.

Our grand judge, minister of justice, and our minister of finance, are charged with the execution of our present decree.

NAPOLÉON.

107. *Congressional Exposition of the Motives and Causes of the War.*

Manifesto of the causes and reasons of War with Great Britain, presented to the House of Representatives, by the Committee of Foreign Relations. June, 1812. Extr.

House of Representatives, June 3, 1812. The period has now arrived, when the United States must support their character and station among the nations of the earth, or submit to the most shameful degradation. Forbearance has ceased to be a virtue. War on the one side, and peace on the other, is a situation as ruinous as it is disgraceful. The mad ambition, the lust of power and commercial avarice of Great Britain, arrogating to herself the complete dominion of the ocean, and exercising over it an unbounded and lawless tyranny, have left to neutral nations an alternative only between the base surrender of their rights, and a manly vindication of them. Happily for the United States their destiny, under the aid of Heaven, is in their own hands. The crisis is formidable only by their love of peace. As soon as it becomes a duty to relinquish that situation, danger disappears. They have suffered no wrongs, they have received no insults, however great, for which they cannot obtain redress.

More than seven years have elapsed, since the commencement of this system of hostile aggression by the British government, on the rights and interest of the United States. The manner of its commencement was not less hostile than the spirit with which it has been prosecuted. The United States have invariably done every thing in their power to preserve the relations of friendship with Great Britain. Of this disposition they gave a distinguished proof at the moment when they were made the victims of an opposite policy. The wrongs of the last war had not been forgotten at the commencement of the present one. They warned us of dangers, against which it was sought to provide. As early as the year 1804, the minister of the United States at London, was instructed to invite the British government to enter into a negotiation on all the points on which a collision might arise between the two countries, in the course of the war, and to propose to it an arrangement of their claims, on fair and reasonable conditions. The invitation was accepted. A negotiation had commenced and was depending, and nothing had occurred to excite a doubt that it would not terminate to the satisfaction of both the parties. It was at this time, and under these circumstances, that an attack was made, by surprise, on an important branch of the American commerce, which affected every part of the United States, and involved many of their citizens in ruin.

The commerce on which this attack was so unexpectedly made, was that between the United States and the colonies of France, Spain, and other enemies of Great Britain. A commerce just in itself; sanctioned by the example of Great Britain in regard to the trade with her own colonies; sanctioned by a solemn act between the two government in the last war; and sanctioned by the practice of the British government in the present war: more than two years having then elapsed, without any interference with it.

The injustice of this attack could only be equalled by the absurdity of the pretext alleged for it. It was pretended by the British government, that in case of war, her enemy had no right to modify its colonial regulations, so as to mitigate the calamities of war to the inhabitants of its colonies. This pretension, peculiar to Great Britain, is utterly incompatible with the rights of sovereignty in every

independent state. If we recur to the well established, and universally admitted law of nations, we shall find no sanction to it in that venerable code. The sovereignty of every state is co-extensive with its dominions, and cannot be abrogated, or curtailed in its rights, as to any part, except by conquest. Neutral nations have a right to trade to every port of either belligerent, which is not legally blockaded; and in all articles which are not contraband of war. Such is the absurdity of this pretension, that your committee are aware, especially after the able manner in which it has been heretofore refuted and exposed, that they would offer an insult to the understanding of the house, if they enlarged on it; and if any thing could add to the high sense of the injustice of the British government in this transaction, it would be the contrast which her conduct exhibits in regard to this trade, and in regard to a similar trade by neutrals, with her own colonies. It is known to the world that Great Britain regulates her own trade, in war and in peace, at home and in her colonies, as she finds for her interest: that in war she relaxes the restraints of her colonial system in favor of the colonies, and that it never was suggested that she had not a right to do it; or that a neutral in taking advantage of the relaxation violated a belligerent right of her enemy. But with Great Britain every thing is lawful. It is only in a trade with her enemies, that the United States can do wrong: with them all trade is unlawful.

In the year 1793 an attack was made by the British government on the same branch of our neutral trade, which had nearly involved the two countries in war. That difference however, was amicably accommodated. The pretension was withdrawn, and reparation made to the United States for the losses which they had suffered by it. It was fair to infer from that arrangement, that the commerce was deemed by the British government lawful, and that it would not be again disturbed.

Had the British government been resolved to contest this trade with neutrals, it was due to the character of the British nation that the decision should be made known to the government of the United States. The existence of a negotiation which had been invited by our government, for the purpose of preventing differences, by an amicable arrangement of their respective pretensions, gave a strong claim to the notification, while it afforded the fairest opportunity for it. But a very different policy animated the then cabinet of England. Generous sentiments were unknown to it. The liberal confidence and friendly overtures of the United States were taken advantage of to ensnare them. Steady to its purpose, and inflexibly hostile to this country, the British government calmly looked forward to the moment when it might give the most deadly wound to our interests. A trade, just in itself, which was secured by so many strong and sacred pledges, was considered safe. Our citizens, with their usual industry and enterprize, had embarked in it a vast proportion of their shipping and of their capital, which were at sea under no other protection than the law of nations, and the confidence which they reposed in the justice and friendship of the British nation. At this period the unexpected blow was given. Many of our vessels were seized, carried into port and condemned by a tribunal, which, while it professes to respect the law of nations, obeys the mandate of its own government in opposition to all law. Hundreds of other vessels were driven from the ocean, and the trade itself in a great measure suppressed.

The effect produced by this attack on the lawful commerce of the United States, was such as might have been expected from a virtuous, independent, and highly injured people. But one sentiment prevailed the whole American nation. No local interests were regarded, no sordid motives felt. Without looking to the parts which suffered most, the invasion of our rights was considered a common cause, and from one extremity of our Union to the other was heard the voice of an united people, calling on their government to avenge their wrongs, and vindicate the rights and honour of the country.

From this period the British government has gone on in a continued encroachment on the rights and interests of the United States, disregarding in its course, in many instances, obligations which have heretofore been held sacred by civilized nations.

In May, 1806, the whole coast of the continent, from the Elbe to Brest inclusive, was declared to be in a state of blockade. By this act, the well established principles of the law of nations, principles which have served for ages as guides, and fixed the boundary between the rights of belligerents and neutrals, were violated. By the law of nations, as recognised by Great Britain herself, no blockade is lawful unless it be sustained by the application of an adequate force; and that an adequate force was applied to this blockade, in its full extent, ought not to be pretended. Whether Great Britain was able to maintain legally, so extensive a blockade, considering the war in which she is engaged, requiring such extensive naval operations, is a question which it is not necessary at this time to examine. It is sufficient to be known that such force was not applied, and this is evident from the terms of the blockade itself, by which, comparatively, an inconsiderable portion of the coast only, was declared to be in a state of strict and rigorous blockade. The objection to the measure is not diminished by that circumstance. If the force was not applied, the blockade was unlawful, from whatever cause the failure might proceed. The belligerent who institutes the blockade cannot absolve itself from the obligation to apply the force, under any pretext whatever. For a belligerent to relax a blockade which it could not maintain, with a view to absolve itself from the obligation to maintain it, would be a refinement in injustice, not less insulting to the understanding than repugnant to the law of nations. To claim merit for the mitigation of an evil which the party either had not the power, or found it inconvenient to inflict, would be a new mode of encroaching on neutral rights. Your committee think it just to remark, that this act of the British government does not appear to have been adopted in the sense in which it has been since construed. On consideration of all the circumstances attending the measure, and particularly the character of the distinguished statesman, [C. J. Fox,] who announced it, we are persuaded that it was conceived in a spirit of conciliation, and intended to lead to an accommodation of all differences between the United States and Great Britain. His death disappointed that hope, and the act has since become subservient to other purposes. It has been made by his successors a pretext for that vast system of usurpation, which has so long oppressed and harrassed our commerce.

The next act of the British government which claims our attention, is the order of Council of January 7, 1807, by which neutral powers are prohibited trad-

ing from one port to another of France, or her allies, or any other country with which Great Britain might not freely trade. By this order, the pretension of England, heretofore disclaimed by every other power, to *prohibit neutrals disposing of parts of their cargoes at different ports of the same enemy*, is revived, and with vast accumulation of injury. Every enemy, however great the number, or distance from each other, is considered one, and the like trade even with powers at peace with England, who, from motives of policy, had excluded or restrained her commerce, was also prohibited. In this act, the British government evidently disclaimed all regard for neutral rights. Aware that the measures authorized by it could find no pretext in any belligerent right, none was urged. To prohibit the sale of our produce, consisting of innocent articles, at any port of a belligerent, not blockaded; to consider every belligerent as one, and subject neutrals to the same restraints with all, as if there was but one, were bold encroachments. But to restrain, or in any manner interfere with our commerce with neutral nations, with whom Great Britain was at peace, and against whom she had no justifiable cause of war, for the sole reason that they restrained or excluded from their ports her commerce, was utterly incompatible with the pacific relations subsisting between the two countries.

We proceed to bring into view the British order in council of November 11, 1807, which superseded every other order, and consummated that system of hostility on the commerce of the United States, which has been since so steadily pursued. By this order, all France and her allies, and every other country at war with Great Britain, or with which she was not at war, from which the British flag was excluded, and all the colonies of her enemies, were subjected to the same restrictions, as if they were actually blockaded in the most strict and rigorous manner; and all trade in articles the produce and manufacture of the said countries and colonies, and the vessels engaged in it, were subjected to capture and condemnation as lawful prize. To this order certain exceptions were made, which we forbear to notice, because they were not adopted from a regard to neutral rights, but were dictated by policy to promote the commerce of England and so far as they related to neutral powers, were said to emanate from the clemency of the British government.

It would be superfluous in your committee to state, that by this order the British government declared direct and positive war against the United States. The dominion of the ocean was completely usurped by it, all commerce forbidden, and every flag driven from it, or subjected to capture and condemnation, which did not subserve the policy of the British government by paying it a tribute, and sailing under its sanction. From this period the United States have incurred the heaviest losses, and most mortifying humiliations. They have borne the calamities of war, without retorting them on its authors.

So far your committee has presented to the view of the house, the aggressions which have been committed under the authority of the British government on the commerce of the United States. We will now proceed to other wrongs which have been still more severely felt. Among those is *the impressment of our seamen*, a practice which has been unceasingly maintained by Great Britain in the wars to which she has been a party since our revolution. Your committee cannot convey

in adequate terms the deep sense which they entertain of the injustice and oppression of this proceeding. Under the pretext of impressing British seamen, our fellow citizens are seized in British ports, on the high seas, and in every other quarter to which the [British power extends; are taken on board British men of war, and compelled to serve there as British subjects. In this mode our citizens are wantonly snatched from their country and their families; deprived of their liberty, and doomed to an ignominious and slavish bondage; compelled to fight the battles of a foreign country, and often to perish in them. Our flag has given them no protection; it has been unceasingly violated, and our vessels exposed to danger by the loss of the men taken from them:

Your committee, believing that the free born sons of America are worthy to enjoy the liberty which their fathers purchased at the price of so much blood and treasure, and seeing in the measures adopted by Great Britain, a course commenced and persisted in, which must lead to a loss of national character and independence feel no hesitation in advising resistance by force; in which the Americans of the present day will prove to the enemy and to the world, that we have not only inherited that liberty which our fathers gave us, but also the will and power to maintain it. Relying on the patriotism of the nation, and confidently trusting that the Lord of Hosts will go with us to battle in a righteous cause, and crown our efforts with success, your committee recommend an immediate appeal to arms.

108. *Declaration of War, June 19, 1812.*

By the President of the United States of America: a Proclamation.

Whereas the Congress of the United States, by virtue of the constituted authority vested in them, have declared by their act bearing date of the eighteenth day of the present month, that WAR exists between the united kingdom of Great Britain and Ireland, and the dependencies thereof, and the United States of America and their territories; now therefore I, James Madison, President of the United States of America, do hereby proclaim the same to all whom it may concern: that I do especially enjoin all persons holding offices, civil or military, under the authority of the United States, that they be vigilant and zealous, in discharging the duties respectively incident thereto: And I do moreover exhort all the good people of the United States, as they love their country; as they value the precious heritage derived from the virtue and valour of their fathers; as they feel the wrongs which have forced on them the last resort of injured nations; and as they consult the best means under the blessing of Divine Providence, of abridging its calamities that they exert themselves in preserving order, in promoting concord, in maintaining the authority and efficacy of the laws, and in supporting and invigorating all the measures which may be adopted by the constituted authorities, for obtaining a speedy, a just, and an honorable peace.

In testimony whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed to these presents.

[SEAL.]

Done at the city of Washington, the nineteenth day of June, one thousand eight hundred and twelve, and of the Independence of the United States the thirty-sixth.

JAMES MADISON.

By the President: JAMES MONROE, Sec. State.

109. *Instructions to Mr Forsyth on the Spanish Treaty of Indemnity of 1819.*

Extract.

Washington, 1819. The treaty of amity, settlement and limits, between the United States and Spain, concluded on the 22d ultimo, and ratified on the part of the United States, having provided for the adjustment of all important subjects of difference between the two nations, the first object of your mission will be to obtain the ratification of the Spanish government, and receive it in exchange for ours, the authentic instrument of which is committed to your charge.

On exchanging the ratifications, certificates of the fact will be mutually executed and delivered by you and the Spanish minister, with whom you will make the exchange. Copies of that, which passed in both languages on the exchange of the ratifications of the convention of the 11th August 1802, are now furnished you, and will serve as forms to be used in the performance of this ceremony. On this occasion, as upon all others, upon which you may have occasion to execute any document, joint, or reciprocal, with a foreign minister of state, you will be careful to preserve the right of the United States to the *alternative* of being first named, and your own right, as their representative, to sign first in the papers executed; while, in the counterparts, the other contracting party will be named first, and the foreign minister will first sign and seal. A rigid adherence to this practice has become necessary, because it is strictly adhered to by all the European sovereigns in their compacts with one another; and because the United States having, heretofore, forborne to claim this conventional indication of equal dignity, some appearance of a disposition to allege the precedent against them, as affecting their right to it, was manifested by the British plenipotentiaries on executing the convention of 3d July 1815, and M. de Onis at the drawing up and signing of this treaty.—The scruple was, however, in both cases abandoned, and the right of the United States to the alternative was conceded. It is not expected that it will, hereafter, be questioned, and you will consider it as a standing instruction to abide by it in the execution of any instrument of compact, which, as a public minister of the United States, you may be called to sign.

After the exchange of the ratifications, your attention will be directed to the object of carrying the provisions of the treaty into effect. The orders for the evacuation by the Spanish officers and troops of the places, occupied by them in the Floridas, will, no doubt, be immediately issued, and as the transports and escort for conveying to the Havana are to be furnished by the United States, it is hoped you will obtain copies of the orders and transmit them here with the ratification of the treaty. You will think it advisable to keep the Spanish government reminded of the necessity to include the orders for the delivery of possession, that of all the archives and documents, relating to the dominion and sovereignty. The appointment of a commissioner and surveyor for running the line of the western boundary must, also, be kept in remembrance, and notice given to us, as soon as possible, after their appointment. You will collect from the archives of the legation at Madrid all the documents, relating to the claims of citizens of the United States upon the Spanish government, which have been deposited there, and which come within the description of claims to be exhibited to the commissioners under the 11th article of the treaty. You will send all these documents, together with

the ratified treaty, to this department, retaining descriptive lists of them, and, if necessary, copies of such papers, for which no equivalent substitute could be produced in case of their being lost. Should you have reason to believe that any documents, which you should be able to specify, were in possession of the Spanish government, tending to elucidate any of these claims, you will endeavour to obtain them. The treaty provides, that they shall be furnished at the demand of the commissioners. But as much time may be saved, if they can be sent here to be ready when the commission will be organized and commence the exercise of its functions, you will, should the occasion present itself, use your endeavours to that effect."

110. *Nesselrode to Mr Poletica, Russian Minister in the U. States, 1819.*

Extract.

You doubtless have been able to obtain information, how far the president's last instructions to Mr. Forsyth were positive. The emperor will not now take it upon him to justify Spain, but he charges you to plead with the government at Washington the cause of peace and concord. That government is too enlightened to take hasty steps, and its rights appear to be too solid, not to be weakened by a violent course of proceeding: and on the other hand, such is the character of the considerations, which command the ratification by Spain of the arrangement, relative to the Floridas, that, it is hoped, she will, at length, yield to the force of evidence. The United States will then have added to the reputation of an able, that of a moderate policy, and will gather with security, the fruits of wisdom.

His Imperial Majesty, therefore, wishes that if there be yet time, you would engage the government at Washington to give to the Spanish ministry a proof of patience, which its circumstances might indeed seem to suggest. Nevertheless, the emperor does not interpose in this discussion. He makes, above all, no pretension to exercise an influence in the councils of a foreign power. He merely expresses a wish, dictated by his concern for the general welfare, and worthy of the generous, good faith, which characterises the government of the United States."

111. The treaty of Feb. 22, 1819, was signed, after a succession of negotiations of nearly twenty year's duration, in which all the causes of difference between the two nations had been thoroughly discussed, and with a final admission on the part of Spain, that there were existing just claims on her government, at least, to the amount of five millions of dollars, due to citizens of the United States, and for the payment of which provision was made by the treaty. It was signed by a minister, who had been several years residing in the United States, in constant and unremitting exertions to maintain the interests and pretensions of Spain, involved in the negotiation—signed, after producing a full power, by which in terms, as solemn and as sacred as the hand of a sovereign can subscribe, his Catholic Majesty had promised to approve, ratify and fulfil whatever should be stipulated and signed by him."—"The express authority of two of the most eminent writers upon national law to this point were cited in Mr Forsyth's letter of 2d October 1819, to the duke of San Fernando. The words of *Vattel* are, 'But to refuse with honour to ratify that, which has been concluded in virtue of a full power, the sovereign must have strong and solid reasons for it, and particularly he must show, that that his minister transcended his instructions.' The words of *Martens* are, 'Every

thing, that has been stipulated by an agent, in conformity to his full powers, ought to become obligatory for the state from the moment of his signing, without ever waiting for the ratification.'

"However, not to expose the state to errors of a single person it is now become a general maxim, that public conventions do not become obligatory, until ratified. The motive of this custom clearly proves, that the ratification can never be refused with justice, except when he, who is charged with the negotiation, keeping within the extent of his full public powers, has gone beyond his secret instructions, and, consequently, rendered himself liable to punishment, or when the other party refuses to ratify."—"After a lapse of more than a month from the time of Mr Forsyth's first note, and of more than two months from the time, when the Spanish government had received the treaty, with knowledge that it had been ratified by the United States, the ratification of a treaty, which his Catholic Majesty had solemnly promised, (so that it might be exchanged within six months from the date of its signature, or sooner if possible) was withheld merely to give time to his Catholic Majesty to examine it; and this treaty was the result of a twenty years' negotiation, in which every article and subject, contained in it, had been debated and sifted to the utmost satiety between the parties, both at Washington and Madrid—a treaty in which the stipulations by the Spanish minister had been sanctioned by successive references of every point to his own government, and were, by the formal admission of your own note, fully within the compass of his instructions.

"If, under the feeling of such a procedure on the part of the Spanish government, the minister of the United States appealed to the just rights of his country in expressions, suited more to his sense of its wrongs, than to the courtesies of European diplomacy, nothing had till then occurred, which could have restrained the Spanish government from asking of him any explanation, which could be necessary for fixing its determination upon the ratification."

112. *Mr Russell to the Count d'Engerstroem on the Swedish Claims.*

Extract.

June, 1818. None of the nations, whose dominions border on the Baltic, ever committed, in relation to the United States, nor it is believed in relation to other friendly nations, any act similar to that, for which the undersigned has been instructed to ask indemnity from Sweden. Of the conduct of Russia and Prussia during the continental system the United States has no cause to complain, and if Denmark imposed a sequestration towards the close of the year 1809, on American vessels and their cargoes in her ports, that sequestration continued for a few months only, and the American property, subjected to it, was restored, without exception, to the lawful owners. If the United States have now claims on Denmark, it is for the lawless depredations of her privateers and the unjust decision of her tribunals, and not for the confiscation without the form of a trial of property, acknowledged to be American, and fairly and regularly entered at her custom houses. Of all the nations, bordering on the Baltic, it was left for Sweden, alone, to receive the duties, and summarily and peremptorily to confiscate the merchandise without suggesting a doubt of its origin or ownership."—"The Swedish government, forgetting its previous assurances and disregarding the incontrovertible rights of the

United States and the friendly relations, which had not ceased to subsist between the two countries, advertised that property for sale at Stralsund on the 2d day of August 1811, actually sold it on the 14th day of the same month, and caused the proceeds thereof to be paid into the Swedish royal treasury in Pomerania. These facts, it is believed, will not be contested, for they are supported by documents of acknowledged authenticity. Between the 12th July 1811, the day on which this property was placed at the disposal of the Swedish government, and the second day of the following month, on which it was advertised for sale there elapsed twenty one days only, a period barely sufficient for deciding on the royal order at Stockholm and for its transmission to Stralsund, and for the preparation and publication of the advertisement. The undersigned is ignorant of the date of that order, but from the considerations, just suggested, it could not well have been issued at a latter day than the twentieth of the same month of July, and consequently not more than eight days after the note of the Baron Alquier had announced the complete liberation, on the part of France, of the sequestered property. Whatever might have been the extravagance and versatility of the predominant despotism of the time it will not be presumed, that the government of the United States will volunteer a belief of a total change of policy in so brief a period, and if instead of consenting to raise the sequester as so formally and recently announced, it had been capriciously resolved to proceed to immediate confiscation. His Excellency must be aware, that the precise orders, received from the French government during that period, should be produced, and communicated to the American government to obtain its faith in the existence of an inconsistency in its nature so incredible. But neither his Excellency or any other Swedish functionary has attempted to show that any such orders were so received, and the undersigned will now dare to trouble his Excellency with proof, not mere presumptively that they are not. A declaration of the Swedish authorities in Pomerania renders it certain that they, at least, acted in complete ignorance of such orders, as well as all French interference on the occasion, and in the full conviction, that the Swedish government at Stockholm had the exclusive control of the transaction. This declaration is contained in reply of those authorities, on the 9th of August 1811, to a memorial, presented to them on the 6th of that month by certain merchants of Stralsund, on behalf of themselves and of their American constituents. This reply clearly manifest the opinion, which the Swedish Regency in Pomerania entertained of the justice of the object of the memorial, and of the competency of their Sovereign to decide definitively in relation to it. It is, likewise, evident from their engagement to place provisionally the proceeds of the merchandise, claimed in the royal chamber, that they acted independently of all French interference, and that there was no agent of France in their vicinity, whom they felt themselves obliged to consult, or to obey in this proceeding."

[These acts were never denied by Sweden, but an attempt was made to throw a different hue over them.]

"It is an undisputed fact that the American vessels in question entered the ports of Pomerania, whilst that province was still under the dominion of Sweden, but scarcely was the French government informed of it, when it gave orders to its agents in Pomerania to demand the seizure and confiscation of these vessels to the

benefit of France, alleging, in justification of this violent pretension, the system, called continental, under which France then cloaked her projects of progressive encroachment, menacing all Europe, but which had notwithstanding been acceded to by all European powers at peace with the French empire. The imposing force, at that time kept up by France in those countries, left no alternative to the Swedish government, which was reluctantly compelled to acquiesce in her demands. The steps then taken by Sweden with the French government, to obtain a transfer to her of the property, thus confiscated, were prompted by a desire to restore it to the lawful owners, but they proved ineffectual, France, having agreed to transfer on certain conditions only, expressly stipulating, that the proceeds of these cargoes should be immediately employed in placing Pomerania in a state of defence against the English naval force, which then threatened all the shores of the Baltic."

113. *Mr Russell to the Secretary of State.*

Extract.

Agreeably to the invitation, above mentioned, I dined yesterday, with the King at his country palace of Rosendale. Immediately after dinner, he desired me and Count d'Engerstroem to accompany him into his private apartments. He there, at once, introduced the subject of the claims, and expressed a regret that all the circumstances, connected with that transaction, had not hitherto been communicated to the American government. He observed that these circumstances, he believed, would palliate, if not justify the conduct of Sweden in that transaction, and that they should be immediately addressed to me. He then gave directions to Count d'Engerstroem in conformity with this declaration, and, in doing so, he alluded to an order of the French government, designating the objects to which the proceeds of the American property were to be applied. He added, that he was still disposed to do all he could for the relief of the American sufferers, but that, as he had nothing excepting military stores at his disposal for this object, he could furnish this relief in articles of that description only. I simply replied, that we could not have expected, that new facts would have been brought forward at this late day, after the earnest manner in which we had so long urged these claims, and that I could hardly believe, I might say hope, that these facts were of a nature to justify the Swedish government and exempt it from all responsibility. I was, however, entirely disposed to give to these facts, whatever they might be, a candid consideration."

[*The Claims on Sweden were closed by a private agreement.*]

114. *Mr G. W. Erving to M. de Rosenkrantz—Danish Claims.*

Convoy Cases. Copenhagen, June 7, 1811.

[Extract.] With my note of yesterday, I transmitted to your excellency a list of the 'convoy cases,' twelve in number; the two last in that list are now depending on appeal before the high court, as is mentioned in a memorandum opposite to their names; the first eight vessels of the remaining ten were bound immediately from Petersburg and Cronstadt to the United States; they had all paid their sound dues, and several of them had been examined before the Danish marine tribunals, on entering the Baltic; and they were all arrested, in going out, by a British force, and compelled to join convoy. When that convoy was attacked by his Majesty's gun brigs, the Americans, not conscious of any illegality in the nature of their

voyages, or of any irregularity in their own conduct, made no efforts to escape, and were captured and brought into port. These vessels have been condemned under the authority of the article 'D' in the 11th clause of his Majesty's instructions for privateers, issued on the 10th of March 1810, which declares to be good prize "All vessels which have made use of British convoy, either in the Atlantic or the Baltic. At the time of this declaration, these vessels were in Russia, on the point of sailing, and wholly ignorant of it."—"That the belligerent has a right to ascertain the character of neutrals met with at sea, I am not disposed to deny; but to say that the neutral shall be condemned on the *mere fact* that he was found under enemy's convoy, is to impose upon him the necessity of sailing without protection, even against his own separate enemies; for the case might well happen, indeed has happened, that though neutral with regard to the belligerent powers, he has had an enemy, against whom either of the belligerents might be disposed to protect him. Of such protection, the American commerce has often availed itself, during the war between the United States and the Barbary powers; nor was it ever supposed, by either of the great belligerent powers, that such commerce, so protected by its enemy, had thus become liable to capture and confiscation. The case might also occur, that of two allied belligerent powers, a third power should be enemy as to one, and neutral as to the other. I state these arguments against the *broad ground* taken in the royal instructions above quoted. But it will be said, that the belligerent, having also an unquestionable right to ascertain the neutrality of vessels, and belligerent right being paramount to neutral rights, where the two happen to be in collision; hence the attempt of the neutral to deprive the belligerent of his right, by putting himself under convoy, forms of itself a ground of capture and confiscation. To this I answer, first, that the belligerent rights, where they come in collision with those of neutrals, are not to be deemed in all cases paramount; and that nothing can establish such a general rule but force, which is not law or justice. Secondly, that no presumption necessarily arises against the neutral, from the mere circumstance of his being found under enemy's convoy; but that this point will depend upon the peculiar circumstance of each case. Thirdly, that where the belligerent and neutral rights conflict, all other circumstances being equal, the plea of necessity ought to decide the question in favour of the neutral. In the case supposed, the belligerent is seeking the mere exercise of a right, but the neutral is occupied in his self preservation. These vessels did not seek convoy for any purpose, but they were forced into it; they had no motive to seek convoy as a protection against Cruisers. They had, indeed, other inducements to put themselves under convoy; the decrees of his Majesty the emperor of France being then in force, that system, working against the English orders in council, produced such a state of things, with regard to the commerce of America, that scarcely one of its ships could move on the face of the ocean, without being exposed, under this unfortunate co-operation of hostile systems, to capture and confiscation. But had this happened in the cases before us, yet it would not have formed a just ground of capture and confiscation; for, the merits or demerits of the Berlin and Milan decrees out of the question, those decrees have not been adopted by Denmark; indeed, at the time the vessels were taken, his majesty had not assumed any course, with respect to the American commerce, from which evil was to be apprehended; hence, I beg leave to repeat, that the ves-

vessels in question cannot be presumed to have sought protection under British convoy, for the purpose of avoiding his cruisers. But if the contrary had been proved, if it stood confessed, that they had sought convoy against Danish cruisers; in that case, they would have been liable to capture, certainly—but it is equally certain, that they would have been liable to condemnation. I must again totally deny, that the rule laid down in the article of the royal instructions yet above cited, is supported by any principle to be found in the law—and I can confidently ask your excellency to show me any authorities in its favour. If the writers be silent on the subject, then their silence is to be construed favourably for the neutral. But the law says, that neutral goods found under the enemy's forts, within his territory, or even on board his vessels at sea, which is to be as immediately and totally under his protection as is possible,—that these are not liable to confiscation, but shall be restored to the neutral owners. The doctrine laid down by Grotius, in the “*De Jure Belli ac Pacis*,” on this point, he has never been refuted, but has, on the contrary, been adopted by subsequent writers. England herself has never gone to the extent of condemning vessels upon the mere ground of their having been taken under enemies' convoy; but she has captured them in that situation, and then acquitted them.”

115. *Mr Rush's Outline of the Question of Impressment.*

[From his “Residence at the Court of London.”]

Great Britain, as a measure of state policy, impresses her seamen to serve on board her ships of war; in other words, takes them *by force*. The practice is one with which other nations have nothing to do, as long as it is confined to British seamen, the British dominions, or the decks of British vessels upon the seas. It may seem at variance with the high standard of personal rights upon which her laws are founded in other respects; but that consideration is wholly for herself.

But, she claims the right of searching the vessels of other nations upon the high seas, for her seamen; and here begins the cause of complaint. For, how can the claim ever be enforced consistently with what is due to other nations?

Let the steps by which the enforcement proceeds be attended: A British frigate in time of war meets an American vessel at sea, boards her, and, under terror of her guns, takes out one of the crew. The boarding lieutenant asserts, and let it be admitted, believes, the man to be a Briton. By this proceeding, the rules observed in deciding upon any other fact where individual or national rights are at stake, are overlooked. The lieutenant is accuser and judge. He decides upon his own view, instantly. The impressed man is forced into the frigate's boat, and the case ends. There is no appeal, no trial of any kind. More important still, there is no remedy, should it appear that a wrong has been committed.

Different is the mode of proceeding if an American merchant vessel be stopped and examined at sea under circumstances subjecting her to suspicion as prize of war. In the latter case, the boarding officer sends the vessels into port under accusation. Facts are inquired into judicially, and both parties heard. Both have ample opportunity of bringing forward proofs; should the tribunal decide that lawful cause of seizure existed, the vessel is restored, the captors are answerable in damages, and there are adequate modes of making them pay. If, on the other hand, the man seized, be in fact no Briton, the most that he can ever hope

for is, merely to be released. This can only take place after he has been kept an indefinite length of time on board the frigate, put to duty, and perhaps made to fight. He may be slain in battle. If this fate does not await him, his subsequent liberation, from the nature of the case, can only be effected at a distant day, and is not certain at last. He may not be able whilst on board the frigate, to obtain documents to show that he is not a Briton. He may be transferred to some other vessel of war. . . Even to trace him, through a navy scattered over all seas, must become to his country or friends a difficult, often a hopeless task. Should the chances, multiplied as they are against him, all turn out in his favour, and the order for his discharge be finally obtained, where is his action for damages; where his remedy for loss of liberty? for this outrage, so terrible, upon all his feelings and rights? He has none.

A claim so ex parte in the whole enforcement, so intrinsically open to error, and the error if committed so fatal, cannot, it should seem, rest upon public law. The United States say, that it does not. They have never denied to Great Britain the *right of search*. They allege however that this means search for enemy's *property*, or articles contraband of war, not search for *men*. They say that no public code or other adequate authority, has ever established the latter as an international right. If its exercise by any other state than Great Britain can be shown, the instances are averred to be too few, and too devoid of the evidences of general consent, to have made it part of the law of nations. Troops indeed, or men in the military service of the enemy, may be taken out of a neutral vessel at sea; but this is wholly different from impressing seamen.

Great Britain places her claim on the ground of natural allegiance. She alleges, that, by a principle of universal law, a man owes this kind of allegiance to the country of his birth. That he never can shake it off. That as his country protects him, so it may demand his services in return; especially in time of war.

The United States reply, that the principle of natural alliance, however cherished by some states, is not universal. Sir William Blackstone in his commentaries so able and masterly for the most part, lays it down as universal; but he refers for support, only to the writers of England. Puffendorf holds that allegiance may be put off; so do Grotius and Bynkershoek. If we choose to go as far back as the Justinian code, we shall there find the same doctrine. The principle of perpetual allegiance may be held sacred by Britain; it may be of the highest practical importance under her own system; but the United States say, that its operation should be confined to her own territorial dominions, and decks of her own merchant vessels. There is scarcely an important principle of public law that has not, at one time or other, had place in treaties among European states, the better to define or regulate it. This is especially the case with principles that belong to maritime affairs. Would a right of such concern to all nations using the sea, as a sovereign's to enforce the allegiance of his own subjects in neutral vessels on its broad highway, have altogether escaped notice in these solemn instruments between states? Yet it is believed that no treaty contains any thing in relation to it.

The United States have been exposed to grievances from the exercise of this claim by Britain, heavier perhaps than ever fell to the lot of an independent nation. It springs from a cause rooted in nature, and irreversible; the resemblance of their

seamen to those of England. Their language, dress, sea phrases, every thing, are alike. To discriminate, is, in most cases, impossible. Of this, the proof is incontestible, and here follows.

Britain disavows, unequivocally, all claim to impress from American ships, any other seamen than her own. Her sense of justice would not allow her to set up any pretence of claim to take Americans; yet these she unavoidably does take, and in numbers sufficient to surprise those not informed upon the subject.

From a report made to congress by the secretary of state in April 1816, it appeared, that the impressed American seamen on board of the British armed ships at the commencement of the war of 1812, a war occasioned chiefly by this cause, amounted to one thousand four hundred and twenty-two. Here is no exaggeration. The fact comes from the archives of Britain. It is taken from official lists, furnished by functionaries of the British government to the American agent for prisoners of war in London. These men had been transferred from English ships to English prisons, on the breaking out of the war, or during its progress.

Furthermore. Britain, at a former period, liberated one thousand one hundred and thirty-two Americans who had been impressed prior to the month of September, 1801. This fact also rests upon the authority of British archives, and was included in the same report to Congress. On the impressment of all these Americans, the British boarding officers must have believed they were taking their own subjects; else they took them knowing them to be Americans: Hence the difficulty not to be surmounted, of distinguishing American from British seamen.

What then do we learn? more than two thousand six hundred American citizens, confessedly, the sufferers under this practice! and this by no means the whole list. All were clearly Americans. No British seamen, naturalized in the United States, was ever, if impressed, given back again. Can Britain, whose pride and spirit have raised her to greatness, and who must know how to respect such qualities in other nations, can she for a moment, wonder, that a practice leading to such consequences, should excite the deepest sensation in the United States?

She complains, that she is aggrieved by the number of her seamen who get into the merchant service of the United States, through our naturalization laws and other causes. This takes from her, she alleges, the right arm of her defence.—Without her navy, her existence, no less than her glory, might be endangered. It is therefore vital to both, that, when war comes, she should reclaim her seamen from the vessels of a nation where they are so frequently found. * * *

The foregoing is an outline of the question, in its main features. It may serve to give some idea of the manner in which it operates upon the United States. As between the two nations, it is a question *sui generis*. To both, it is of the last importance.—The diplomatic history of the United States will show how repeated and earnest have been their endeavours to settle it. The joint mission to London in 1806, when Mr Monroe and Mr Pinkney were our negotiators, could effect nothing on this point; and Mr King's effort in 1803, successful in all other respects, was at last frustrated by Great Britain insisting on reserving her right to impress within the narrow seas.—To this doctrine of the *mare clausum* of her Selden, in opposition to the *mare liberum* of Grotius, the United States were not prepared to assent. They never can assent to it.

I return to my interview with Lord Castlereagh. He remarked, that intrinsic as were the difficulties respecting impressment, his desire was sincere to see them removed; and his efforts to remove them, would be given with earnestness.—I assured him, that, under all my instructions, my efforts would be equally sincere and earnest. The conversation proceeded. We adverted to the principles maintained by our respective countries. He said, that the abuse of the practice, for he freely admitted its abuse, had been the result of the peculiar state of the world, all Europe having been at war, and America neutral. He did not believe that the desire to enforce their right to the same extent, would exist in future; or that it would be drawn into exercise at all, if means could be devised to keep their men out of our vessels. I said, that the question never could be put to rest as long as a British naval officer was allowed to muster an American crew upon an American deck, to look for British seamen. Besides the indignity of this, so felt by all America, the inevitable consequences to which it must lead of subjecting Americans to seizure instead of Britons, would preclude forever all hope of adjustment. The best mode we could devise of keeping British officers from our vessels on such errands, was that which he had hinted at; namely, to keep British seamen away altogether. This we were desirous to do, as far as in our power. I promised to furnish him with a proposal to this effect; and he, that it should have a liberal consideration.

116. *American Proposal for abolishing Impressment,*

Submitted by Mr Rush to Lord Castlereagh, on the 18th of April, 1818.

“Great Britain alleging a right to impress her seamen out of American vessels upon the high seas, it follows, that whenever a mode can be devised for their previous exclusion from American vessels, the motive for the practice must be at an end. It is believed that this may be effected by each nation imposing restraints upon the naturalization of the seamen of the other, and reciprocally excluding from their service all seamen not naturalized. If Great Britain be allowed to naturalize American seamen, the United States must be allowed to naturalize British seamen. Each should be at liberty to afford the same facilities, or bound to interpose the same restraints. The greater the difficulty in acquiring the right of citizenship, the easier will it be to avoid imposition, and the more complete the desired exclusion. The law of Congress of the third of March one thousand eight hundred and thirteen, of all the provisions of which, Great Britain may command the benefit, will prove how sincerely the United States desire to settle this controversy on conditions satisfactory to Great Britain. By that law it is made indispensable for every British subject who may hereafter become a citizen, to reside five years in the United States without intermission, and so many guards are interposed to prevent frauds, that it seems scarcely possible they should be eluded. No British subject can be employed in a public or private ship of the United States unless he produce to the commander in the one case, and to the collector of the port in the other, a certified copy of the act by which he became naturalized. A list of the crew in the case of a private ship, must be taken, certified, and recorded by the collector; and the consuls or commercial agents of Great Britain may object to the employment of a seaman, and have the privilege of attending the investigation relative to his citizenship. The commander of a public ship receiving a person not

duly qualified, is to forfeit a thousand dollars, and the commander or owner of a private ship, five hundred. It is also made a felony punishable by fine and imprisonment, for any person to forge or counterfeit, or to pass, or use, any forged or counterfeited certificate of citizenship, or to sell or dispose of one.

“The United States will also be willing to provide that every British subject desiring to become a citizen, shall be bound to appear in person before the proper tribunal, once a year, for the term of five years, until his right shall be completed, or adopt any other more practical and satisfactory evidence that his residence within their territory was bona fide and uninterrupted, it being their sincere desire to employ their own seamen only, and exclude British. By requiring five years uninterrupted residence as the condition of citizenship, it is confidently believed that, from considerations readily suggesting themselves, few if any British seamen would be found to take advantage of it. The nature of a seaman’s life stands opposed to any other conclusion. If in some instances, a residence should be commenced with a real intention, at the time, of submitting to this condition, the presumption is strong that, at the expiration of the term, such a change of habits and prospects would be superinduced, as to lead to the abandonment forever of the sea as an occupation. If the proposal be accepted, the United States would farther agree, that none of the British seamen who might be within their territory when the stipulation to give it effect was entered into, without having already become citizens, should be admitted into either their public or private ships, until they had acquired the right, according to all the above regulations. In return for them, a clear and distinct provision to be made by Great Britain against impressment out of American vessels.” * * *

Although in our conference of the eleventh [of June, 1818,] I had made known the willingness of the United States to exclude from their naval and merchant service all British seamen, native as well as naturalized, I did not think proper to let the proposition rest on the footing of a verbal offer, but reduced it to writing, [June 20] in terms as follow:

“The proposal submitted by the Undersigned to Lord Castlereagh, upon the subject of impressment, on the eighteenth of April, not being found acceptable, he has the honour to offer on behalf of his government, the following:

“Each nation rigidly to exclude from service on board of their ships of war and merchant vessels, *all native born subjects, or citizens of the other.* The checks and precautions stated in the former paper, to guard against fraudulent naturalization, to be resorted to (with the proper modifications) to prevent imposition relative to the birth place of seamen, or others adopted. Seamen already naturalized in the United States, to be excluded from the operation of the agreement, as these, by their laws, cannot be included. The number of this class is believed to be small, and in a short time would cease altogether. Although the stipulation for exclusion must be reciprocal, a provision to be inserted authorising the United States, if so disposed, to dispense with the obligations it would impose on their own seamen, whenever the latter may choose of their own accord to enter the British service; this power of dispensation to be reciprocal, if desired.

“Should the above proposal be accepted it will follow that all British seamen or subjects now in the United States, and not heretofore naturalized, will be ex-

cluded from their sea service, and that all who arrive in future will be excluded. Great Britain, on her part, to come into a distinct stipulation, not to impress men out of American vessels." R. R.

I handed this paper to his lordship. The proposal had, as I knew, been rejected; but I knew the president's desire to settle this great question, and believed that I should be more truly the organ of his will, by putting the proposal in a shape in which it might go upon the archives of his majesty's government.

117. *British Projet for regulating Impressment,*

Submitted by the Right Honorable F. J. Robinson and H. Goulbourn, Esq. to Messrs Gallatin and Rush. Extract.

1. "The high contracting parties engage and bind themselves to adopt without delay, and in the manner that may best correspond with their respective laws, such measures as may be most effectual for excluding the natural born subjects and citizens of either party from serving in the public or private marine of the other: Provided always, that nothing contained in this article shall be understood to apply to such natural born subjects or citizens of either power as may have been naturalized by their respective laws, previous to the signature of the present treaty. And such measures, when adopted, shall be immediately communicated to each party respectively.

2. "For the better ascertaining the number of persons on either side that may fall within the exception contained in the preceding article, the high contracting parties engage to deliver, each to the other, within twelve months from the ratification of the present treaty, a list of all persons falling within the said exception, specifying the places of their birth, with the date of their becoming naturalized. And it is further agreed, that none other than the persons whose names shall be included in the lists, shall be deemed to fall within the said exception.

3. "The high contracting parties however reserve to themselves the power to authorize and permit by proclamation, their respective subjects or citizens, to serve in the public or private marine of the other country. And it is hereby expressly understood, that, as long as such permission shall remain in force, it shall be competent for the government of the other power, notwithstanding the engagement set forth in the first article of this treaty, to admit the performance of the said service. *Provided always,* That whenever the power so granting permission to the said subjects or citizens to serve in the marine of the other, shall withdraw the same, notification thereof shall forthwith be made to the other contracting party, and, on receipt of such notification, the power receiving the same shall, forthwith, notify it in the most public and official manner, and shall use its utmost endeavours to restrain the said subjects or citizens of the other party from further serving in its public or private marine, and shall enforce the exclusion of such of the said subjects or citizens of the other power as may then be in its service, as if no such permission had been promulgated.

4. "In consideration of the stipulations contained in the preceding articles, it is agreed by the high contracting parties that, during the continuance of the present treaty, neither power shall impress or forcibly withdraw, or cause to be impressed, or forcibly withdrawn, any person or persons from the vessels of the other power when met upon the high seas, on any plea or pretext whatsoever. *Provided always,* That nothing contained in this article shall be construed to apply to the vessels of

either power which may be within the ports, or within the maritime jurisdiction of the other, and also provided, that nothing herein contained shall be construed to impair or affect the established right of search as authorized in time of war by the law of nations.

5. "The high contracting parties have agreed to extend the duration of the present treaty to ten years, and they reserve to themselves to concert, as to its renewal, at such convenient period, previous to its expiration, as may ensure to their respective subjects and citizens, the uninterrupted benefit which they expect from its provisions: Provided always, that either power may, if it deem expedient, upon giving six months previous notice to the other, wholly abrogate and annul the present treaty.

6. "It is agreed that nothing contained in the preceding article shall be understood to affect the rights and principles on which the high contracting parties have heretofore acted, in respect to any of the matters to which these stipulations refer, except so far as the same shall have been modified, restrained, or suspended, by the said articles. And, whenever the present treaty shall cease to be in operation, either by the expiration of the term for which it is, enacted, without any renewal of the same, or by the abrogation thereof by either of the high contracting parties, as hereinbefore provided, or, (which God forbid) by any war between them, each of the said high contracting parties shall stand, with respect to the other, as to its said rights and principles, as if no such treaty had ever been made."

In submitting these articles, the British plenipotentiaries expressed upon the protocol their conviction that under all the difficulties that surrounded the question they would be sufficient to satisfy us of the earnest disposition of Great Britain to go every practicable length in a joint effort for their removal, so as to connect the two countries in the firmest ties of harmony. It was with this solemnity that the subject was presented to our consideration.

It received from us a deliberate and anxious attention. We brought to the task an unaffected desire to smooth down every obstacle. It was not to be supposed that a subject that had divided the two nations for five and twenty years, and been the principal cause of a war, could be definitively arranged by the first project of a treaty drawn up by one of the parties. But we hailed the entire plan as the harbinger of adjustment, believing that we saw in its spirit and outline the sure hope of success. Taking an interval for advisement we said, that the proposals heretofore made by the United States could leave no doubt of their constant desire to settle this question, and declared our readiness to agree, with some amendments, to the plan submitted. We added our full expectation that, founded as it was in mutual confidence, it could not fail to have a happy effect towards rendering durable the relations of amity so happily subsisting between the two countries. These sentiments we, too, recorded with like solemnity on the protocol.

Several of our amendments were only verbal. We did not think that the recital in the preamble met the whole case on both sides, and offered alterations, some of which were approved. So the clause under which there might have been a claim to continue impressment in the narrow seas, we objected, and it was, in effect, withdrawn. Nor did we like the particular mode, or place, in which Britain reserved the right of search at the close of the fourth article. We suggested, in lieu of it, that the words should go to a different article, and provide that neither

party should be affected by the treaty "in any of their belligerent or neutral rights as acknowledged by the law of nations, so far as modified, restricted, or suspended by the treaty." It becomes unnecessary however to dwell on these and other points as to which the parties did not agree at first, since they might have agreed ultimately, had it not been for two that proved fatal to the plan. To the explanation of these I therefore confine myself.

The second article, with a view to ascertain the persons who were to be excepted from those intended to be excluded from the sea service of either nation, provides, that each shall furnish the other with a list of their names. This list was to specify the place of their birth, and dates of their naturalization; and none but persons whose names were upon it, were to fall within the exception. To this provision we were obliged to object, our laws not enabling us to meet all that it required. As a substitute we proposed that "no natural born subject or citizen of either power whose name should not be included in the list, should be deemed to fall within the exception, UNLESS HE PRODUCED PROOF OF HIS HAVING BEEN DULY NATURALIZED PRIOR TO THE EXCHANGE OF RATIFICATIONS OF THE TREATY."

Reasons must be given why the United States could not comply with the British article as it stood. Anterior to 1789, aliens were naturalized according to the laws of the several states composing the Union. Under this system, the forms varied and were often very loose. The latter was especially the case when they were drawn up by justices of the peace, as sometimes happened. Since that epoch, the forms have been uniform, and are only permitted before such courts of record as are designated by the laws of the United States. But the designation includes not only courts of the United States, properly so called, but courts of the several states. Minor children also of naturalized persons, if the former be within the limits of the Union, become *ipso facto*, naturalized. It must be added, that, for several years no discrimination as to the birth place of aliens was recorded. If attempts were made to procure the lists required, a first objection might have been that the courts of the several states were not bound to obey, in this respect, a call from the general government. But granting that all obeyed, the lists would have exhibited nothing more than the names of British natural born subjects, naturalized during a period of nearly thirty years. They would not designate *seamen*, the law not having required a record of the occupation; nor would they embrace minor children, *their* names never having been directed to be registered. There was but one other source from which lists could have been derived, and here only partially. By a law of 1796, collectors of customs were required to keep books in which the names of seamen, citizens of the United States, were, *on their own application*, to be entered. Under this law, as may be inferred from its terms, the entry of names was not full; nor did the law draw a distinction between native citizens and citizens by naturalization.

From this summary it is manifest, that a compliance with the British article would have been impracticable. The unavoidable consequence of consenting to it would have been, that aliens naturalized before the treaty, and entitled by our laws to all the rights of citizens, would, by an *ex post facto* and therefore unconstitutional measure, have found themselves excluded from following the seas as an occupation.

All these obstacles we presented to the British plenipotentiaries; and they were plainly such as we could not remove, whatever our desire. But we urged, that the condition required, appeared unnecessary. By the substitute we proposed, every native born subject of Britain claiming the right of serving in our vessels, and not being able to show his name upon the lists, would have to adduce other proof of his naturalization. This other proof must have been, either the original certificate of naturalization, or an authentic copy. It could have been on no better proof, than any names would have returned in the lists. If minors claimed the benefit of the exception, legal proof must have been given of their identity; to which must have been subjoined, proof of the naturalization of their fathers. We urged also the right reserved to either party of annulling the treaty at will, as affording a sufficient security. It was a reservation, not of our choice, but acquiesced in, to avoid objection, and supersede the necessity of details too complicated. It gave Britain a remedy in her own hands against deviations from the true spirit of the compact, whenever she believed any were committed.

But we could not prevail upon the British plenipotentiaries to recede from their ground. They appeared to have taken up an impression which we were unable to expel, that great numbers of their seamen intended by the treaty to be excluded, would, but for the condition annexed, find their way into our service.

The other part of the project that produced fatal diversity, was in the first article. It ran thus: "*provided always, that nothing contained in this article shall be understood to apply to such natural born subjects or citizens of either power, as may have been naturalized by their respective laws previous to the SIGNATURE of the present treaty.*" In place of SIGNATURE, we proposed "EXCHANGE OF RATIFICATIONS." To the former, we could not consent. It would have brought with it the same consequence—that of violating our Constitution. The obligations of a treaty are not complete, until exchange of ratifications. To exclude from our service, subjects naturalized prior to that date, would have involved the objection of *ex post facto*. The British plenipotentiaries would not agree to drop their word. Here too was manifested what, to us, seemed needless apprehension. As by the laws of the United States a residence of five years is one of the pre-requisites to naturalization, the number of British seamen who could have come in between the two dates, must have been extremely small; not worth consideration, as we supposed, in a national point of view. But we could not succeed in making the British plenipotentiaries think so. The subject was debated until the closing hours of the negotiation, and then fell to the ground. It put the seal to the failure of our efforts.— We had offered all that was possible under our Constitution and laws. We could go no farther.—

The failure to accommodate this formidable source of strife between the two nations, is only postponed, not defeated. If removed in no other way, it will cease, ultimately, through the cessation of the practice as a home measure in England. It cannot endure much longer; it is impossible. Englishmen will get their minds open to its true nature. It is the remark of a sagacious historian of their own, that nations long after their ideas begin to enlarge and their manners to refine, adhere to systems of superstition founded on the crude conceptions of early years. It is the same with public abuses. The English part, reluctantly, with those sanction-

ed by time; but at length, public scrutiny and the moral sense of the nation, fasten upon them; as in the case, for example, of the slave trade. Reason emerges, as from a cloud; the abuses fall, and loud reprobation succeeds to the long tolerance that kept them up. Indications are not wanting of this coming change as to impressment.

Finally, I superadd my testimony to that of every other American, that the United States cannot again permit the exercise, by any Foreign power, of impressment on board their vessels at sea. After the incontestible facts set forth in [page 558 of] this volume, they would be untrue to themselves, and the race they spring from, if they did.

118. *The Fisheries.*

From the Same.

By the third article of the Treaty of September 1783, between the United States and Great Britain, the people of the former had the "RIGHT to take fish on the Grand Bank, " and all other banks of Newfoundland; in the Gulf of St. Lawrence, and all other places " in the sea, where the inhabitants of both countries had been used to fish before; and " the LIBERTY to fish on such part of the coast of Newfoundland as British fishermen " used, (but not to dry or cure fish there,) and on the coasts, bays and creeks of all other " British dominions in America. American fishermen had also the liberty to dry and " cure fish in any unsettled bays, harbours, and creeks of Nova Scotia, Magdalen Islands, " and Labrador; but as soon as any of them were settled, this LIBERTY was to cease, " unless continued by agreement with the inhabitants."

These were RIGHTS and LIBERTIES of great magnitude to the United States.— Besides affording profitable fields of commerce, they fostered a race of seamen conducive to the national riches in peace, as to defence and glory in war. After the peace of Ghent, the fishing vessels of the Union proceeded as formerly to fish off the British coasts, and use the unsettled shores for curing and drying, according to the stipulations of the above treaty. They were immediately ordered off by the British naval forces. Some were captured. The ground alleged was, that the treaty was no longer in existence. The government of the United States obtained a suspension of these apparently hostile orders and proceedings until the two governments could make efforts for adjusting a question of so much moment.

The British doctrine was that the treaty of 1783 not being re-enacted or confirmed by the treaty of Ghent, was annulled by the war of 1812.

The United States wholly dissented from this doctrine. They did not deny the general rule of public law on which Britain relied; that a war puts an end to previous treaties; but they insisted that the rule was not applicable to the treaty of 1783. That treaty, was peculiar in its nature and objects. It had no analogy to common treaties and was not to be judged by their rules. It was a treaty by which Great Britain had acknowledged the independence of the United States, after a seven years contest in arms. It made two empires out of one. It was a treaty of separation. The rights of each party were laid down as primary and fundamental, in the act of dismemberment which the treaty established. So much of territory and incidental rights in America, were allotted to one, so much the other. The entire instrument implied permanence. Hence all the fishing rights secured under it to the United States, were placed by Great Britain upon the same foundation with their independence itself. Was her acknowledgment of the latter revoked

by the war of 1812? or were the boundaries of the United States as affixed by the treaty of 1783, annulled by that war? So far was this from being the case, that the treaty of Ghent, in making provision for ascertaining with further accuracy some parts of the boundary line, constantly referred to the treaty of 1783: thus manifesting a tacit conviction on each side, that this treaty was regarded as the fundamental law of the relations between the two countries. By what rule then was the war to destroy the treaty in some part and leave it whole in others? The use of the word *right* in one place and *liberty* in another, could make no difference. A liberty of unlimited duration, secured by so elementary and solemn a deed, was as much a right as if stipulated by any other term. In speaking of rights and liberties in a national sense, both terms were alike efficacious. Liberty might have seemed the more appropriate term where an enjoyment was guaranteed to one party, of a *thing* adjoining territory allotted to the other; but it took nothing from the permanence of the allotment. In point of principle the United States were pre-eminently entitled to all these fisheries; and in point of fact they had enjoyed more of them than any other portion of the British empire before the separation. The people of New England, from their proximity, had been earlier led to the discovery and improvement of the best fishing grounds, and had also, with other parts of the Union, contributed amply in blood and treasure towards winning from France, provinces on the coast of which some of the fisheries were situated. Apart from the question of right, the claim of the United States had high sanctions. These fisheries afforded subsistence to a numerous class of their inhabitants. By the usages of nations, fishermen were a portion of human society, whose occupations, contributing to the general welfare of the species, were always regarded with favour. Sometimes they were even exempt from the effects of war whilst it raged; as when England herself allowed the Dutch to fish upon her coasts at such seasons. The foregoing is a synopsis of the material arguments by which the claim of the United States was defended. Whatever could shed light upon it, had been urged by Mr Adams when in the English mission, with an ability and fullness that left little to be said after him.

The claim was resisted by Great Britain in a manner to give proof of her equal sincerity in the opposite doctrine. She denied that the treaty of 1783 had any thing in its nature to exempt it from abrogation by a war. She knew of no exception to this rule of international law, and could not consent to give to her diplomatic relations with one state, a different degree of permanence from that on which her connexion with all other states depended. She did not admit that this treaty was to be regarded as in force, because the treaty of Ghent had referred to it on the subject of boundaries. One object of the latter treaty was, the mutual restoration of territory taken by either party from the other during the war. As a necessary consequence of such a stipulation, each party reverted to their boundaries as before the war; and the treaty of 1783 having fixed these, the treaty of Ghent had referred to them as *facts*, nothing more. She contended that it was not unusual for treaties containing recognitions and acknowledgments of perpetual obligation to contain likewise grants of privileges liable to be revoked. The treaty of '83 contained provisions of different characters; some in perpetuity, others from their nature, temporary. If it were inferred, because some of the advantages specified

would not be lost by a war; that therefore all were designed to be permanent, it ought first to be shown that the advantages themselves were the same; or at least of similar character. But what necessary connexion was there between a right to national independence, and a liberty to fish within British jurisdiction, or use British territory? Liberties within British limits, were as capable of being exercised by a dependent, as an independent state; they could not therefore be the necessary consequence of independence. The independence of a nation was that which could not be correctly said to be granted by a treaty, but to be acknowledged by one. In the treaty of 1783 the independence of the United States was acknowledged by Great Britain, as it had already been by the powers of Europe; and by Britain herself, in her previous consent in November 1782, to enter into provisional articles. Their independence might have been acknowledged without either the treaty or provisional articles; but by whatever mode acknowledged, the acknowledgment was, in its nature, irrevocable. A power of revoking or even modifying it, would be destructive of the thing itself, and was therefore necessarily renounced when the acknowledgment was made. She urged as corroborative of her reasoning, notwithstanding the explanations suggested by the American plenipotentiaries, the use of the word right when the United States were to take fish on the banks, and other places from which Great Britain could not pretend to exclude any independent nation, and liberty when they were to cure and dry within British territory. The latter was also made to depend on agreements with proprietors of the soil, whenever the territory might become settled. As to the origin of the fishing privileges in point of fact, she admitted that whilst the United States made part of the British dominions, their inhabitants had the enjoyment of them in common with other British subjects; but they had at the same time, like British subjects every where, duties to perform. When therefore the United States, by their separation from Great Britain, became released from the duties, they became excluded also from the privileges of British subjects.—The above is a summary of the reasoning in its chief parts, against our claim. It was embodied in a paper by Lord Bathurst, in October 1815, prepared with the force and zeal that the subject demanded. The views of each party on the question, had not been left out of sight in negotiating the treaty of Ghent. [See page 571, art. 119, *post.*]

To the distinction so much insisted on by Great Britain between *liberty* and *right* it was replied for the United States, that the former, if construed to imply limitation of time, or precariousness of tenure, would defeat the whole meaning of the article, as gathered from the context. The restriction itself, at the close of the article, stamped permanence upon it. The intention was, the people of the United States should continue to enjoy all the benefit they had formerly enjoyed from the fisheries, with the exception of drying and curing on the shores of Newfoundland; but when *other* shores on which they were to have this liberty, became settled, *then* its exercise was to be conciliated with the proprietary rights of the owners of the freehold. This was precisely the restriction to which British fishermen would be liable. Whence it followed, that the argument against permanence on account of the word *liberty* being used, if applicable to the inhabitants of the United States, would also be applicable to the subjects of Britain. The argument therefore by proving too much, proved nothing. The principles of municipal law in England, which were the same in the United States, corroborated the interpretation for

which the latter contended. By these, the property of a fishery was not necessarily in the owner of the soil. The right to the soil might be exclusive; the fishery, free or in common. Thus, whilst in this partition of the national possessions in America, the *jurisdiction over the shores* where the fisheries were situated was reserved to Great Britain, the fisheries themselves and accommodations essential to their prosecution and enjoyment, were, by the mutual compact, agreed to be in common. How different the course adopted in the treaty of Utrecht on a similar point. By the twelfth article of that treaty, Nova Scotia was ceded to Britain; yet the subjects of France were expressly excluded from fishing within thirty leagues of the coast. This prohibition was renewed in the fifth article of the treaty of Paris of 1763. By the eighteenth article of the same treaty, the subjects of Spain were excluded from all fishing rights in the neighbourhood of Newfoundland.—The treaty of 1783 was, therefore, it was again insisted, altogether unlike common treaties. It contemplated a permanent division of coequal rights, not a transient grant of mere privileges. The acknowledgment of independence, the establishment of boundaries, and the guarantee of the fisheries, each rested upon the same immutable basis.

Neither side yielded its convictions to the reasoning of the other. This being exhausted, there was no resource left with nations disposed to peace, but a compromise. Great Britain grew willing to give up something. The United States consented to take less than the whole. After various proposals by the former, which the latter rejected, as inadequate, we at length, as their plenipotentiaries, acceded to the following: viz.—

“That the United States should have, FOREVER, in common with the British subjects, the liberty to fish on the southern coast of Newfoundland, from Cape Ray to the Rameau Islands; and from that cape to the Quirpon Islands on the western and northern coasts; and on the shores of the Magdalen Islands; and on the coasts, bays, harbours and creeks from Mount Joli, on the southern coast of Labrador, through the Straits of Belleisle, and thence indefinitely along the coast, northwardly; but without prejudice to any exclusive rights of the Hudson Bay Company: Also, the liberty, FOREVER, to dry and cure fish in any of the unsettled bays, harbours and creeks of the southern coast of Newfoundland, as above described; and of the coast of Labrador; subject, after settlement, to agreement with the proprietors of the soil. In consequence of the above stipulations, the United States renounced forever the liberty of fishing within three miles of any other part of the British coasts in America, or of curing or drying on them. But American fishermen were to be permitted to enter bays or harbours on the prohibited coasts for shelter, repairing damages, and obtaining wood and water, subject to restrictions necessary to prevent abuses.”

Such was the article, finally, agreed upon. The most difficult part of our task, was on the question of permanence. Britain would not consent to an express clause that a future war was not to abrogate the rights secured to us. We inserted the word *forever*, and drew up a paper to be of record in the negotiation, purporting that if the convention should from any cause be vacated all anterior rights were to revive. The insertion of any words of perpetuity, was strenuously resisted by the British plenipotentiaries. They said that in case of war, the only effect of their omission would be, the necessity of providing in the treaty of peace, for the renewal of the right. We replied that we could agree to no article on the subject, unless the word *forever* was retained; or if any counter record was made on the protocol impairing its effect.

It was by *our* act that the United States *renounced* the right to the fisheries not guaranteed to them by the convention. That clause did not find a place in the British counter-projet. We deemed it proper under a threefold view; 1, to exclude the implication of the fisheries secured to us being a new grant; 2, to place the rights secured and renounced, on the same footing of permanence; 3, that it might expressly appear, that our renunciation was limited to three miles from the coast. This last point we deemed of the more consequence from our fishermen having informed us, that the whole fishing ground on the coast of Nova Scotia, extended to a greater distance than three miles from land; whereas, along the coasts of Labrador it was almost universally close in with the shore. To the saving of the exclusive rights of the Hudson's Bay Company, we did not object. The charter of that company had been granted in 1670, and the people of the United States had never enjoyed rights in that bay that could trench upon those of the company. Finally, it is to be remarked, that the liberty of drying and curing on certain parts of the coast of Newfoundland, as secured in the article, had not been allotted to the United States, even under the old treaty of 1783.

119. *The American Plenipotentiaries to the Secretary of State,*

On concluding the Treaty of Ghent with the British Plenipotentiaries. From "The Fisheries and the Mississippi," By John Q. Adams. Extract.

Ghent, 25th December, 1814. Sir: We have the honour of transmitting, herewith, one of the three copies of the treaty of peace between Great Britain and the United States, signed last evening by the plenipotentiaries of his Britannic majesty and by us.—

At the first conference on the 8th of August, the British plenipotentiaries had notified to us, that the British government did not intend, henceforth, to allow to the people of the United States, without an equivalent, the liberties to fish, and to dry and cure fish, within the exclusive British jurisdiction, stipulated in their favour, by the latter part of the third article of the treaty of peace of 1783. And, in their note of the 19th of August, the British plenipotentiaries had demanded a new stipulation, to secure to British subjects the right of navigating the Mississippi: a demand, which, unless warranted by another article of that same treaty of 1783, we could not perceive that Great Britain had any colourable pretence for making. Our instructions had forbidden us to suffer our right to the fisheries to be brought into discussion, and had not authorized us to make any distinction in the several provisions of the third article of the treaty of 1783, or between that article and any other of the same treaty. We had no equivalent to offer for a new recognition of our right to any part of the fisheries, and we had no power to grant any equivalent which might be asked for it by the British government. We contended that that the *whole treaty* of 1783, must be considered as one entire and *permanent compact*, not liable, like ordinary treaties, to be abrogated, by a subsequent war between the parties to it; as an instrument recognising the rights and liberties enjoyed by the people of the United States as an independent nation, and containing the terms and conditions on which the two parts of one empire had mutually agreed thenceforth to constitute two distinct and separate nations. In consenting, by that treaty, that a part of the North American continent should remain subject to the British jurisdiction, the people of the United States had reserved to

themselves the liberty, which they had ever before enjoyed, of fishing upon that part of the coasts, and of drying and curing fish upon the shores; and this reservation had been agreed to by the other contracting party. We saw not why this liberty, then no new grant, but a mere recognition of a prior right, always enjoyed, should be forfeited by a war, any more than any other of the rights of our national independence, or why we should need a new stipulation for its enjoyment more than we needed a new article to declare that the king of Great Britain treated with us as free, sovereign, and independent states. We stated this principle, in general terms, to the British plenipotentiaries, in the note which we sent to them with our project of the treaty; and we alleged it as the ground upon which no new stipulation was deemed by our government necessary to secure to the people of the United States all the rights and liberties, stipulated in their favour, by the treaty of 1783. No reply to that part of our note was given by the British plenipotentiaries; but, in returning our project of a treaty, they added a clause to one of the articles, stipulating a right for British subjects to navigate the Mississippi. Without adverting to the ground of prior and immemorial usage, if the principle were just that the treaty of 1783, from its peculiar character remained in force in all its parts, notwithstanding the war, no new stipulation was necessary to secure to the subjects of Great Britain the right of navigating the Mississippi, as far as that right was secured by the treaty of 1783; as, on the other hand, no stipulation was necessary to secure to the people of the United States the liberty to fish, and to dry and cure fish, within the exclusive jurisdiction of Great Britain. If they asked the navigation of the Mississippi as a new claim, they could not expect we should grant it without an equivalent; if they asked it because it had been granted in 1783, they must recognise the claim of the people of the United States to the liberty to fish and to dry and cure fish, in question. To place both points beyond all future controversy, a majority of us determined to offer to admit an article confirming both rights: or, we offered at the same time, to be silent in the treaty upon both, and to leave out altogether the article defining the boundary from the Lake of the Woods westward. They finally agreed to this last proposal, but not until they had proposed an article stipulating for a future negotiation for an equivalent to be given by Great Britain for the navigation of the Mississippi, and by the United States for the liberty as to the fisheries within the British jurisdiction. This article was unnecessary, with respect to its professed object, since both governments had it in their power, without it, to negotiate upon these subjects if they pleased. We rejected it, although its adoption would have secured the boundary of the 49th degree of latitude west of the Lake of the woods, because it would have been a formal abandonment, on our part, of our claim to the liberty as to the fisheries, recognised by the treaty of 1783.

You will perceive by the correspondence, that the 9th article [relative to putting an end to Indian hostilities] was offered us as a *sine qua non* and an ultimatum. We accepted it, not without much hesitation, as the only alternative to a rupture of the negotiation, and with a perfect understanding that our government was free to reject it, as we were not authorized to subscribe to it. We have the honour to be &c.

J. A. BAYARD,
JONATHAN RUSSELL,

JOHN QUINCY ADAMS,
HENRY CLAY,
ALBERT GALLATIN.

121. *The Boundary.*

From Mr Rush's Residence at the Court of London.

The boundary line, from the lake of the Woods. This line had been originally laid down in the treaty of 1783. It proved defective, and further provision was made for running it, in the treaty of 1794.—Several attempts, for effecting this provision, came to nothing. The cession of Louisiana by France in 1803 gave to the United States new and extensive territory west of the Mississippi.—This altered the relative position of Great Britain and the United States in this quarter, and the hitherto unsettled boundary was now arranged.—It was provided, that *a line drawn from the most northwestern point of the Lake of the Woods along the forty ninth degree of latitude due west, should be the line of demarkation, forming the southern boundary of the British territories and the northern boundary United States, from the Lake of the Woods to the Rocky Mountains. In case such a line would not run along the forty ninth degree, but fall above or below it, then the line was to be traced by first drawing one from the same point, north or south as the case might be, until it struck forty nine; from which point of intersection the western line was to begin.*—Thus it was definitively settled.

An attempt was made by the British plenipotentiaries to connect with this article, [on the boundary line from the Lake in the Woods] a clause securing to Great Britain access to the Mississippi, and the right to its navigation. They made a similar claim at Ghent, but withdrew it; and we declared that we could consent to no clause of that nature. Its omission having, in the end, been agreed to, that subject was also put at rest. Britain under the treaty of 1783, had the right of navigating the Mississippi; but it was then the western boundary of the United States. Their northern boundary, by the same treaty, was to have been a line running due west from the most northwestern point of the Lake of the Woods to the Mississippi. It was afterwards ascertained that a line so drawn, would not strike the Mississippi; its head waters not being within British limits, as first supposed. Hence, all reason for Britain to claim the right of navigating a river which touched no part of her dominions, ceased. The United States have claimed, in a subsequent negotiation, *the right of navigating the St. Lawrence, from its sources to its mouth.* The essential difference in the two cases, is, that *the upper waters of the St. Lawrence* flow through territory belonging to both countries, and form a natural outlet to the ocean for the inhabitants of several states of the American Union.*

The third article effected a temporary arrangement of *claims beyond the Rocky Mountains and to Columbia river.*

That settlement, called Astoria, made by Americans, was broken up by the British during the war, but fell back to the United States by the treaty of Ghent, on the principle of *status ante bellum.* The British plenipotentiaries manifested a strong desire to connect this subject with that of the boundary line; and appeared unwilling, except under such a connexion, to agree to the line in any shape. We pro-

* See Definitive treaty between France and Great Britain of 30th May, 1814, art. 5, page 147 of this volume. In the Congress of Vienna Treaties the same stipulation is contained, on the Navigation of Rivers, extending it to the Scheldt, Moselle, Meuse, Mayne, and Necker. See general arrangements for the Navigation of Rivers, at large, as agreed on, by Eight European Powers, page 181, also in this volume.

posed its extension to the Pacific ocean. The treaty of Utrecht had fixed the forty-ninth degree of latitude as the line between the possessions of Britain and France, including Louisiana, since ceded to the United States. If therefore the United States and Britain arranged their claims westward, the same line carried on to the Pacific, seemed the natural one. We contended that, as far as prior discovery could give the right to territory, ours was complete to the whole, on the waters of the Columbia. It derived its name from the American ship that first entered its mouth. It was first explored from its inland sources under the express authority of the government of the United States. The British traveller, M'Kensie, had mistaken another river for a branch of the Columbia; the American travellers, Lewis and Clarke, as was now fully ascertained, having been the first to trace the Columbia from the interior to the ocean. Astoria had, as incontestibly, been the first permanent settlement at its mouth.

The British plenipotentiaries asserted, that earlier voyages of English navigators, amongst them Cook's, gave to Britain the rights of prior discovery on this coast. They alleged also that purchases of territory had been made by Britain, or her subjects, from the natives south of this river, before the American revolution. They made no formal proposal of a boundary in these regions, but intimated that the river itself was the most convenient, and said they could agree to none that did not give them the harbour at its mouth, in common with the United States. To this we could not assent, but were willing to leave things west of the mountains, at large, for future settlement. To this they objected, and made in turn propositions objectionable in our eyes. Finally it was agreed, that the country on the north-west coast of America, westward of the Rocky Mountains, claimed by either nation should be open to the inhabitants of both, for ten years, for purposes of trade; with the equal right of navigating all its rivers.

I cannot leave this part of the negotiation without remarking, that the important question of territorial rights which it involves between the two nations, is still an open one; and I do not fear to record the prediction that it will be found a question full of difficulty, under whatever administration either of Great Britain or of the United States, it may hereafter be approached. It is not in the genius of either nation readily to yield what it believes itself entitled to; and however strong our own convictions of the just foundation of the whole of our claim on that coast and its interior, the convictions of Great Britain in the stable nature of her right, that interferes so materially with ours, is not less decided and unequivocal. Nor will she push it with less zeal; not more on the general ground of her maritime and commercial enterprise, which are only stopped by the limits of the globe, than on her special desire to foster the growing interests of her colonial settlements all over this continent, and those of the trading companies that issue from them.

The fourth article prolonged for ten years the existing commercial convention. By its provisions, a reciprocal liberty of commerce is established between the United States and the British dominions in Europe. Importations and exportations into or from either nation, are to be the same as permitted to other nations, and chargeable with no higher duties. The vessels of each nation, pay equal tonnage duties in each other's ports; and duties upon merchandise imported into or exported from either, are the same whether conveyed in vessels of the one nation, or the

other. Other clauses give to vessels of the United States the right of trading with the principal British settlements in the East Indies; viz. Calcutta, Madras, Bombay and Prince of Wales' Island; but it is only the direct trade between these settlements and the United States, that is opened. The vessels of the United States pursuing this trade, or going to China, may also touch for refreshments at the Cape of Good Hope, St. Helena, or other possessions of Great Britain in the African or Indian seas. These are the principal enactments of this commercial convention. It was originally negotiated in the summer of 1815, by three public men of the United States, long signalized in the home and foreign service, Mr. Adams, Mr. Clay, and Mr. Gallatin.

121. *Statement on the side of the U. States on opening the West India Trade.*

From the same.

The U. States contend for a free intercourse in their vessels, with the British West India Islands, and British colonies on the continent of North America, whenever the trade, to either, is opened at all by Great Britain to their flag; else they say, that, by navigation acts of their own, they will be obliged to prohibit the trade altogether. The steady policy of England has been, to secure as large an employment as possible of her own tonnage, in carrying on her commerce with the rest of the world. Her celebrated navigation acts, commenced in Cromwell's time and adhered to in principle ever since, whatever occasional departures there may have been from them in practice, have all had this end in view. They provided, that the whole trade between England, and the continents of Asia, Africa and America, should be carried on in English ships, manned by English sailors. They also embraced regulations that placed the trade between England and the European nations, upon nearly the same footing. It was against the previous monopoly of Dutch tonnage that these navigation acts were levelled. What more natural, than that other nations should be unwilling to witness the same monopoly in the tonnage of England, that she objected to in that of the Dutch; more especially since the foreign and colonial dominions of the former have swelled to an extent that could scarcely have been conceived in the time of Cromwell? The West India Islands being part of the British empire, her right to interdict *all* trade between them and any foreign country, could not be denied; and was not. As a general rule, she did interdict it. But there were junctures when, to advance objects of her own, she would throw the trade open to the United States. When she did this, she confined it to her *own ships*, manned, as by law they must be, by *their own sailors*. What the United States claimed was, that, whenever the trade existed at all, it should be carried on in *their* vessels, manned by *their* sailors, as well as with the vessels and sailors of England. The trade once opened, the United States were parties to it; and thence urged their right to a voice in its regulation. This was their doctrine. It had been maintained since the days of President Washington. It contemplated no interference with the colonial rights, or monopoly, of Great Britain. It left her at full liberty to prohibit the importation into her colonies of whatever articles she thought fit, from the United States; and in like manner to prohibit exportations. It only asked, that the commercial intercourse, of whatever nature it might be, that was once opened for her benefit, or that of both countries, should be placed upon a footing of equality as to the *vessels*

and *sailors* of both. This had lately been done in the trade between the United States and the European dominions of Britain, by the convention of July 1815.— That convention itself, unless the reciprocity were extended to the West Indies, would give undue advantage to British vessels. The latter could sail, under its enactments, from Liverpool to New York, for example, paying, in New York, none other than American duties. Thence, under the English colonial system, they could sail to the English West Indies, and back again to England; making profit from this threefold operation. American vessels, on the other hand, were confined to the direct track between New York and Liverpool. The British ship, as was well expressed by a distinguished American senator, could sail on the three sides of the triangle: the American, only on one.

Britain, on her part, alleged, that she had the right to regulate the trade between her colonies and the rest of the world in all respects as she saw fit. This she declared it was proper she should do, not only as regarded the commodities entering into the trade, but the vessels carrying them. She said, that to assent to the basis of reciprocity in her trade between these islands and the United States, would give to the latter inherent advantages owing to their proximity to the islands. That she maintained the islands at great expense for their civil governments and military establishments, and that on these grounds, as well as that of her general sovereignty over them, not only had the right, but held it necessary to her just interests to employ, chiefly, if not exclusively, her own vessels and seamen in the trade, whenever opened, no matter to what extent, or on what inducements. Such briefly, was the British doctrine. It will come into view again.

I will subjoin a brief commentary upon the original *navigation act* of *England*, as passed by the Commonwealth parliament, in 1652. It is by Jenkinson, from his work on treaties.

“Critics in commerce reason variously,” says he, “on the benefits or disadvantages of this act. Those who argue in its disfavour, reason on the general principle of its being an error in politics to interrupt the free course of commerce by any kind of prohibitions whatsoever; which is generally true, and would be always so, could one be assured of constant universal amity. But as that is very far from being the case, the exception to the general rule in this case holds good, since nothing is more clear, than that those who employ most ships will have most seamen, and consequently be best enabled to command the sea. It was but too evident by this short war [Cromwell’s with Holland] how near a match for us the Dutch were, and continued so for some years after; and had not this act been made, would very probably before this time have been too potent for us, as they would have had the gross of the European seamen in their service; so that the act, notwithstanding some inconveniences it might produce in point of commerce, was a very happy thought in the making, and shows our judgment in its being continued.”

This celebrated act may be said to have changed the maritime condition of the world. It continues to this day to affect the legislation of the United States.

The four articles of which Lord Castlereagh spoke, [formerly submitted by the British government to Mr J. Q. Adams] reduced to their essence may be described thus:—The first extended to the United States, the provisions of certain Free Port acts, as they were called, authorizing a trade in the articles which they enumerated, between certain specified ports of the British West Indies and the

colonies of European nations, in vessels having only one deck. The second made a special provision for the trade between the United States and the island of Bermuda, in a larger list of articles, and without limiting the size of the vessel. The third allowed cotton and tobacco to be imported from the United States in their own vessels to Turk's Island, and salt to be taken away from that island, also in their vessels. The fourth aimed at regulating the intercourse, though under many restrictions, between the United States and the British continental colonies in America, adjoining the dominions of the former.

To his lordship's inquiry as to the probability of my government agreeing to these articles, I replied, that the President, when I left Washington, had them under consideration, but I owed it to candour to say, that there was little likelihood of their being accepted, so far did they fall short of the reciprocity desired. He afterwards inquired of what nature would be our *counter-projet*, in the event of their rejection? I said, one that would open this trade fully, and, above all, give to British vessels no privileges of any kind whatever, direct or incidental, over the vessels of the U. S. The latter were ready to grant, in their ports, to British vessels coming from the islands, all the privileges which their own vessels enjoyed; and could not be content with less to their vessels, in the ports of the Islands. His lordship here spoke generally of the colonial system of Britain. He said it was interwoven with her whole commercial code, and code of navigation; and that she owed it to interests which she believed to be important in both connexions, to adhere to the system in the main, however willing to submit to occasional or partial relaxations. I rejoined, that, with whatever reluctance the United States would adopt the policy of closing the trade altogether, in the continued absence of the reciprocity for which they contended, they would, at last, be compelled to adopt it, in necessary justice to their own commercial and navigating interests. I referred him to some acts of Congress already passed with that intent. He wound up by remarking, that Britain, considering the nature of her colonial system, had *no right* to complain of measures of that character on the part of the United States, however she might regret them; nor would she complain. She had maintained it so long, that she would find it *difficult* on that, as well as other accounts, to change it.—

It was a cardinal purpose, under our instructions that entire reciprocity should be the basis of any regulations by treaty for opening this trade; and accordingly we offered the following proposals as essential to the groundwork of our plan:— That the vessels of the United States be permitted to import into the principal ports of the British West Indies, which we enumerated, and into British colonial ports on the continent of South America, naval stores, live stock, provisions of all kinds, tobacco, lumber, and other productions of the United States, the importation of which was allowed from other places. And also that they be permitted to bring back cargoes of sugar, coffee, molasses, rum, salt, and other productions of the foregoing ports or islands, the exportation of which was allowed at other places. The vessels of Great Britain to be confined to the same articles of trade, so that they might have no advantage over those of the United States; the tonnage duties on the vessels of each nation to be the same; and each to be allowed to touch during the voyage, at one or more ports of the other, to dispose of inward or ship outward cargoes. Duties of import and export to be the same on all cargoes, whether car-

ried in American or British vessels, and neither party to charge higher duties upon the productions of the other, than were charged on similar productions in their trade with other places. Regarding the colonies of Britain in North America, we proposed, that both American and British vessels be allowed to import into them, from the United States, the same productions as allowed above, and bring back any productions of those colonies, admitted into the United States from other places; tonnage duties upon the vessels of each nation, to be equal here also, and the duties on all cargoes to be the same, whether carried in the vessel of the one nation or the other.

The British Plenipotentiaries on receiving these proposals, declared them to be inadmissible. They amounted, they said, to a much greater departure from the colonial system of Britain, than she was prepared to sanction. They alleged the impossibility of breaking down the system, favoured as it still was by public opinion, and leagued in with various interests, national and individual. The trade of their North American colonies in salted fish and lumber, the export trade in beef, pork, and flour, from Ireland, the British shipping interest, and the interest of non-resident West India planters, were among those to which they referred.— They were willing to admit reciprocity in the *trade*, (*tonnage* it will be borne in mind is not included under this term) between the United States and West Indies, to a certain extent; but our plan opened it too far. They were willing to open, for example, all the ports we had enumerated, (Bermuda being of the number) except St. Christophers, St. Lucia, Demarara, Essequibo, and Berbice; the exception of the three last, growing out of their engagements with Holland. But if they admitted a specified number of articles in the direct trade with the islands, they thought that we ought to consent to a larger list in the trade with Halifax and St. Johns on the North American continent; and also with Bermuda; we ought not to ask that the trade be confined to the same articles with all their possessions, insular and continental. They claimed also a right for their vessels coming from Great Britain, to touch at any port of the United States and take cargoes for the West Indies; alleging that without this right, the proximity of the United States to the Islands, would give our vessels an undue advantage, and they were willing to agree to a provision, that our vessels should have the same right; a provision, however, the reciprocity of which would have been only nominal. In the end they remarked, that one of our proposals went the length, in effect, of restraining Great Britain from laying higher duties upon articles imported into her islands from the United States, than on similar articles coming from her own possessions in North America; to which they very pointedly objected, urging the natural right of Great Britain to resort to duties of this kind for the purpose of favoring the productions, agricultural or otherwise, of any part of her own dominions.

We did not pretend to deny this last principle; but remarked, that truth in abstract propositions, did not always bear enforcement internationally. We contended that the application of this principle to the trade in question, would prove altogether unjust to the United States. Britain made a distinction, which of course she had the right to do, in her commercial intercourse between her home dominions and colonies. She even drew a distinction in the regulations of trade between her North American colonies, and her West India Islands. The United States

were therefore, in a commercial view, obliged to consider each of these portions of her empire, as many distinct countries. To the United States, they were distinct, as well by geographical situation, and nature of their productions, as by this policy of the parent country. Nor was this mere theory. In the business of trade, it worked tangible results. The United States made an offer to lay no higher duties on productions imported into their ports from British Islands, than on similar productions from other foreign countries. Britain met this by apparent, but owing to the division of her dependencies into separate countries for commercial purposes, certainly not by real justice; she offered to lay no higher duties on productions imported from the United States into her Islands, than were charged on similar ones from other *foreign* countries. Now, this offer would be reciprocal in words only, unless it went farther; it ought to add, than up on similar productions from *any other place*, according to our proposals. The reason was obvious; *the British Islands were supplied with similar productions from no other foreign country than the United States*. The only similar ones, in amount deserving to be mentioned, would go from the North American colonies of Britain herself. The only competition in the supply would therefore be, between these latter colonies and the United States; whereas, there would be a real foreign competition on the productions imported into the United States from the British Islands; similar ones being constantly imported, and in large amount, from the Islands or colonies of other foreign powers. Hence the clause would be *operative* for Great Britain, and only *nominal* for the United States. It was plain that the former could turn it to her own account; her vessels might come to the United States from her Islands, with the productions of the Islands; whilst the vessels of the United States would find little encouragement in going to the Islands with the productions of the United States, because British productions of the same kind would get there in British vessels from Halifax, St. John's, or other British possessions, under duties sufficiently low to vanquish American competition. Such was our answer to this objection. At first sight, the objection wore a fair appearance. It seemed unreasonable to say that Britain must not be left at liberty to foster, by high duties, as she saw fit, the productions of any part of her own dominions. But unless the United States took this ground, they could secure no substantial reciprocity to their own vessels in carrying on the trade to be arranged; and this, plainly because Britain stamps upon her colonies, as regards the interests of navigation and trade, the double aspect described—one making them separate communities—the other part and parcel of the same empire with the mother country—as it may serve to benefit the latter, or bear hard on foreign nations; particularly, from the causes stated, on the United States.

We alleged also the inexpediency of consenting to a limited number of articles as the objects of a direct trade between our ports and the Islands, and allowing an indefinite or even larger list to go circuitously. The effect of this would in like manner be, what the United States aimed at preventing—a disproportionate employment of British tonnage. The articles not allowed to go to the Islands directly, would be sent through Halifax, St. John's or Bermuda. To these ports, it is true, they might go in American vessels; but, arrived there, they would be transferred to British vessels, and carried to the Islands exclusively in the latter. It was a main point with the United States to guard their own shipping from this source of danger.

It was so that we reasoned. Nevertheless, it was our duty to pay a just regard to the considerations which Great Britain had presented; and we expressed a desire to listen to any specific proposals she would make. We asked for a scale of duties that would exhibit the maximum of those intended for the protection of the agricultural or other produce of her own dominions; but no such document was prepared for our consideration. In further reply to the British doctrine about duties, we naturally remarked, that, if enforced against the United States, the latter ought undoubtedly to retain the option of laying higher duties on the productions of the British Islands, than on those of countries where the productions of the United States were, or might be, received on better terms than in the British Islands. We also declared that we could agree to no proposals for regulating the intercourse with Nova Scotia and New Brunswick, unconnected with the Islands.

After these and other particulars had been fully canvassed, it became evident that the parties were too wide asunder to give hope of meeting on ground that would satisfy both. The British plenipotentiaries candidly expressed themselves to that effect; but as we invited proposals, they gave them. Their proposals adhered to the principles of protecting the productions of their North American colonies, by levying higher duties on similar productions from the United States. They also claimed the right for British vessels sailing from the European dominions of Britain, to touch at ports of the United States for the purpose of taking in cargoes for the West Indies. In other respects, as these *nominally*, they admitted the principles of reciprocity, as far as the trade was to be open. But the restricted it in a way to be little acceptable to the United States. Neither sugar, nor coffee, was allowed to be among the direct exports to the United States from the Islands, although we would have consented to a limited amount of each; nor were salted provisions of any kind, including fish, nor lumber, generally, for under the same there were slight exceptions, to be allowed among the imports into the United States. Yet it was proposed that not only sugar and coffee, but *all articles of the produce or manufacture of any of the British dominions, and all West India articles*, should be admitted into the United States through the circum-stations of Bermuda, Halifax and St. John's. It was also asked, that, in the whole trade, *throughout all the regulations of all the United States, should stand upon a footing similar to that of any other foreign nation*. Such were the main features of their proposals.

Britain would agree to no arrangement of the intercourse by land, or inland navigation, with her American continental possessions bordering on the United States, different from the one rejected with the four articles submitted by Lord Castlereagh. Nor would she let us take our produce down the St. Lawrence as far as Montreal, or down the Chambly as far as the St. Lawrence.

On referring her proposals to our government, with all the views elicited from her plenipotentiaries, they were unequivocally rejected. In progress of time, renewed negotiations were held between the two governments, some whilst I remained at the British court, some afterwards. Each government gave up some of the ground taken in this negotiation; but no arrangement, by treaty, has ever yet been made upon this subject. The trade stands upon regulations adopted by the statutes of each nation, which each is at liberty to modify or recall. Until

opened by these regulations, the prohibitory laws of the Union would not allow supplies from the British Islands to come directly to the United States, or to go directly from the United States to the Islands, in the vessels of either power. The reason was, that as Britain would not allow them to come and go in this manner on terms that the United States deemed of equal advantage to their vessels, they preferred that the direct intercourse should cease altogether. It is obvious, that the dispute was about tonnage, rather than the productions or merchandize of either party. These were still permitted to be consumed in the territories of each; but it was necessary to import them in round-about ways.

On a Spanish ambassador once representing to Cromwell that the Inquisition and colonial trade, were his master's two eyes, Cromwell replied, "*Then I must trouble your master to put out his two eyes.*" We cannot address England in such language, although England did Spain; but we may at least remark, that as far as she enforces her colonial system in her intercourse with other nations, the latter will, so far, lose the benefit of equal competition. The United States cannot, it is true, complain that she violates any of their rights in allowing the vessels of her own subjects in her North American colonies, to trade with her Islands on better terms, than the vessels of the United States; but, to whatever extent she does so, it is manifest that, to the same extent, American tonnage must labour under intrinsic disadvantages, and the British be likely to shoot ahead of it; which is the basis of the competition at present—[1818].

122. *Arrangement for opening the West India Trade. Mr McLane to the Earl of Aberdeen.*

9, Chandos-street, Portland Place, July 12th, 1830.

The right Hon. the Earl of Aberdeen, &c. &c. &c.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States, has had the honor already, in a personal conference, to explain to the Earl of Aberdeen, his Majesty's principal secretary of State of Foreign Affairs, certain measures adopted by the Congress of the United States, during their late session, which have an immediate and important bearing on the relations of the two countries, and upon the proposition heretofore submitted by the undersigned, respecting the West India trade. Having received from the Earl of Aberdeen an intimation of the propriety of communicating those measures in a more formal manner, the undersigned has the honor herewith to transmit such information on the subject as he is now in possession of.

The first of the measures alluded to is an act of the Congress of the United States, authorizing the President, in the recess of Congress, to annul all the restrictive and discriminating measures of the United States, and to open the ports to British vessels trading with the British West Indies in the manner particularly pointed out in the act; a copy of which, for the better explanation of the case, the undersigned begs leave to subjoin.

The undersigned has the honor also to inform lord Aberdeen, that, during the late session of the Congress of the United States, several other laws were passed, by which, in lieu of the duties imposed upon certain articles of the produce of the West India islands, and of the possessions of Great Britain, by previous regulations, the following duties only are to be collected; that is to say:

Upon molasses, a duty of five cents, instead of ten cents, per gallon, allowing at the same time a drawback of the duty upon all rum which may be manufactured from that article, and exported from the United States;

On salt, a duty of ten instead of twenty cents per bushel;

On cocoa, a duty of one cent per pound on all imported after the 31st of December, 1830, or remaining at that time in the custom-house stores under the bond of the importer;

And on coffee, a duty of two, instead of five cents per pound, from and after the 31st of December, 1830; and of one cent per pound from and after the thirty-first day of December, 1831, and the same duties to be taken on coffee remaining at the respective times under bond in the custom-house stores.

The undersigned will not permit himself to doubt, that, in the first of these acts, emanating from the frank and friendly spirit which the President has uniformly professed, and passed with an avowed reference to the pending negotiation, the Earl of Aberdeen will see new and irresistible motives for concurring in the promotion of the end to which this measure directly leads.

Such a measure could not have been recommended by the President, without incurring a deep responsibility towards his own country, and feeling a confident reliance upon the justice and magnanimity of this.

It is a voluntary and leading step in the conciliating policy of the two nations, taken in disdain of the restraints of form, and which, if met in a corresponding spirit, cannot fail to produce that friendly intercourse and real harmony so ardently desired by those who consult the true interests and glory of both countries. It concedes in its terms all the power in the regulation of the colonial trade, and authorizes the President to confer on British vessels all those privileges, as well in the circuitous as the direct voyage, which Great Britain has at any time demanded or desired. It has done this in the only manner in which it was possible for Congress, at the present moment, and under existing circumstances, to act, without a total abandonment of even those advantages conceded by the present regulations of Great Britain, and without raising up new interests to obstruct the favorable disposition expressed by this Government. Nor will the undersigned conceal his hope and belief that this act will stamp the negotiation with a new and more favorable character; and that the United States having thus taken the first step, and particularly defined the terms of their legislation, the mode of adjustment may be disencumbered of even those objections with which it was supposed to be embarrassed when submitted to Lord Dudley, and by the answer which on that occasion was given to Mr. Gallatin. The objections suggested at that period on the part of Great Britain, had no special or exclusive reference to the measure in question, but to the giving of any prospective pledge by which she might commit herself to the adoption of any specific line of conduct contingent on events which could not be foreseen, and to the entering into any informal agreement as to mutual acts of legislation, while it was impossible to anticipate the details with which those acts might be accompanied, or the position and circumstances in which the two countries, and the commercial commonwealth generally, might be placed at the time when the laws enacted should come into effect. If these objections could at any time have been essential to the subject, which the undersigned by no means admits, they certainly are not so at present.

The act of Congress has been passed without any pledge, prospective or otherwise; it therefore relieves the adjustment of this subject from that part of the difficulty. The details of the colonial legislation on the part of the United States are precisely defined and fully explained by the law. Frankly announcing all this, it leaves to Great Britain herself the selection of the mode and time in which, according to her conception of her own interests, she may restore the direct trade between the United States and the West Indies. She is enabled deliberately to do this, with a full knowledge of the beforementioned details, and of the precise position and circumstances, as well of the two nations, as of the commercial commonwealth in general, at the time when the measures are to come into effect. This she may do without any risk as to the future, and with the certainty that, while doing an act of justice to a friendly power, and relieving it from an invidious exclusion from advantages allowed to all other nations, she is contributing materially to the prosperity of her possessions in the West Indies.

The undersigned will not dismiss this subject without expressing the hope and persuasion that, in the other measures of Congress alluded to, the Earl of Aberdeen will find not merely all the considerations heretofore urged for giving new facilities to the trade between the United States and the British West Indies materially strengthened, if not absolutely confirmed, but that a further and more favorable alteration is thereby made in the object and character of the negotiation.

These measures manifest at least a laudable desire to loose the shackles of trade and commerce, which, if England is so disposed, she cannot better encourage than by a relaxation of her own restraints upon the particular branch of trade under discussion.

The Earl of Aberdeen has been already informed that the consumption of foreign molasses in the United States is not less than thirteen millions of gallons, even under the discouragement of the high rate of duty, and a denial of the drawback, which nearly proved fatal to the chief source of consumption—the distilleries of New England. It is obvious, however, that the reduction of the duty to its present low rate, and the allowance of the drawback, must swell the demand for this article even beyond the ordinary amount, which, in the regular course of a direct trade, would seek its principal supply in the British West Indies.

Of coffee, not less than thirty-seven millions of pounds were annually imported into the United States; and of those in a regular trade, not less than eight millions from the British West Indies.

Of four hundred thousand pounds of cocoa annually imported into the United States, little less than one-fourth was brought from the British West Indies.

The Earl of Aberdeen will readily perceive, that the reduction of duty on these articles, and especially on coffee, to a rate which will soon be little more than nominal, cannot fail to at least double the importation.

These remarks apply with even additional force to the article of salt, the consumption of which is more dependent on the rate of duty than that of any other necessary of life.

The enormous quantity of this article requisite to supply the wants of twelve millions of people, is too obvious to need any conjectural assertion; but it is worthy of observation that, notwithstanding the extent of the home supply encouraged by the high duty of twenty cents per bushel, the annual importation of that

article from abroad seldom amounted to less than five millions of bushels. Of this amount more than three millions came from Great Britain and her possessions, her West India islands furnishing at least one million.

To what extent this amount may be enlarged by the increased consumption arising from the low rate of duty and the advantages of an easy trade, the Earl of Aberdeen may readily conjecture.

It should be remarked, also, that, while the consumption of this article is thus augmented, the diminution of the duty must proportionably diminish the price of salted provisions. So far as these, therefore, form part of the supplies to the West Indies, the subsistence of the islands will be cheapened, while the demand for their produce is increased.

It should not escape the attention of the Earl of Aberdeen that the provisions of these acts of the Congress, so far as they relate to cocoa, coffee, and salt, confer encouragement on the trade of the West Indies, with the United States, which did not exist, and could not have been contemplated at the period of passing the act of Parliament of 1825. They therefore superadd new and important motives for restoring the trade then offered, and for restoring it upon terms not less favourable.

While the participation of the British islands is invited in the advantages to be derived from this enlarged and increasing demand of the United States for the produce of the West Indies, the undersigned takes leave to suggest the expediency of securing that participation before the trade may be exclusively diverted into other channels by the superior advantages of a direct intercourse with other islands.

In closing this communication to the Earl of Aberdeen, the undersigned will take the occasion to repeat his deep interest in the subject, and a renewed hope of an early and favorable issue. The Earl of Aberdeen will not fail to appreciate the spirit and motive by which the President was actuated in recommending, and the Congress in passing, the act to which allusion was first made. The effects of delay upon the commercial enterprise of the United States, and the disappointment of interests desirous of a different measure of legislation, though they offered great embarrassments, were not the greatest difficulties attendant upon that act. To give to Great Britain the fullest time to consult her own interest and convenience; to make a further and a signal effort to place the commercial relations of the two countries upon a footing of sure and lasting harmony; and to guard, in a manner consistently with duty, against delay during the recess of Congress; could only be done by a measure calculated also to awaken at once the spirit of commercial speculation, and to create new expectations of favorable dispositions on the part of this Government.

If, as the undersigned will continue to hope, the British Government should find it their interest to realise these expectations, their measures will derive additional grace from the frankness and promptitude with which they may be adopted; and if, unfortunately, these hopes are destined to experience a disappointment, it is not less the duty of his Majesty's Government to quiet the public expectations thus excited, and to mitigate, as far as may be in its power, the injurious effects thereof, by giving an early reply to the application which, in behalf of his Government, the undersigned has had the honor to submit.

The undersigned avails himself of this occasion to renew to Lord Aberdeen the assurances of his highest consideration:

LOUIS McLANE.

123. *Mr McLane to Mr Van Buren.*

Successful Issue of the Negotiation on the Colonial Trade.

London, August 20th, 1830. Sir: I have the satisfaction to forward herewith a letter from the Earl of Aberdeen, dated the 17th instant, by which it will be perceived that my negotiation for the colonial trade is successfully closed; and that this Government consents to restore to us the direct intercourse with her American colonies, upon the terms of the proposition submitted by me on the 12th of December last.

It will be perceived, also, that, from an apprehension that the late act of Congress might admit of an interpretation incompatible with the terms of my proposition, and the act of Parliament of the 5th July, 1825, the British government have accompanied their consent with an explanation of the construction which, in their opinion, the law ought to receive, and to which their proceedings will be conformed. This is precautionary, however, and intended to guard against misapprehension in future. The proclamation of the President, which is authorized upon evidence, satisfactory to himself, will be immediately followed, upon the part of Great Britain by the revocation of the order in council of July, 1827, the abolition of the discriminating duties on American vessels in British colonial ports, and by extending to the vessels of the United States the advantages of the act of Parliament of the 5th July, 1825.

If it had been admitted that the late act of Congress varied intentionally from the terms of our proposition, and the British act of the 5th July, 1825, and demanded advantages not contemplated by the latter, it would have been considered as reviving pretensions already given up, and must have had the effect of entirely defeating any hope of recovering the colonial trade. Recurring to your letter of 18th June last, communicating the President's message to Congress and a copy of the law, I did not doubt that the act was, in fact, intended to authorize the President to give effect, in the recess of Congress, to the known and uniform object of the negotiation and to accept a renewal of the trade upon the terms of the proposition which I had been authorized to make. I felt it my duty, therefore, to concur in the suggestion that the supposed deviations in the law from the act of the 5th of July, 1825, were apparent merely, and neither intentional, nor for the purpose of advancing any new claim upon the part of our Government.

My instructions authorized me to propose that the United States should now comply with the conditions of the act of 5th July, 1825, by repealing our restrictive laws, "if such a measure would lead to the revocation of the order in council of July, 1827, to the abolition or suspension of all discriminating duties on American vessels in the British colonial ports, and to the enjoyment by us of the advantages of the last mentioned act of Parliament."

These instructions were literally pursued in the proposition which I submitted in December last, and, together with it, were communicated to Congress. But it will be apparent to you that, if the law necessarily authorize a different construction than that adopted by this government, it will not be a compliance with the conditions of the act of Parliament, but demand advantages which, by that act, are expressly denied, and by this Government allowed to no other country.

The navigation act of Great Britain, by which all her previous acts upon that subject are repealed, and her system permanently established, passed simultaneously with the act of the 5th July, 1825, regulating the trade of the British possessions abroad; and by that act the importation, both into her European and colonial ports is restricted to the vessels of the country of which the articles imported shall be the produce. Nor has this restriction been considered inconsistent with our commercial convention with Great Britain, which we have anxiously sought to extend to the colonial intercourse. The beforementioned act of the 5th of July, 1825, regulating the trade with the British possessions abroad, refers, in express terms, to the act concerning navigation, and limits the right of importation into the British colonial ports to American produce, and to vessels coming directly from the ports of the United States. By acceding to the terms of our proposition, therefore, Great Britain extends to our vessels all the advantages of the act of the 5th July, 1825. She moreover places the United States, in the intercourse with the colonies, on the same footing with all other nations; and by assenting to regulations, though by legislative enactment, in the colonial trade, similar to those provided by our commercial convention for the intercourse between the United States and the British possessions in Europe, she now concedes to us, in this respect, substantially that which we have been ineffectually seeking since the year 1815.

I am not aware that the restriction of the right of importation into the colonies to articles of American produce, was at any period seriously objected to by our Government. Nor can the difference, in this respect, between American and British vessels, if we allow it to continue, be an object of much importance in any point of view. It will generally be our interest, as it is that of every other nation, to allow the exportation of its surplus foreign produce in the vessels of any other country. It must be observed, also, that this is a privilege resulting from the general spirit of our laws, and therefore resting in our discretion. There is nothing in the arrangement now proposed to prevent the United States from hereafter denying to British vessels this advantage, if it prove injurious to their commerce, and in placing by that means the vessels of both countries, in this respect, upon an equal footing. I ought to observe, however, that sound policy would not warrant such a measure at any time.

Independently of these considerations, it is certain that both the restrictions now reserved by the construction adopted by this Government were absolutely conceded by ours before the present negotiation commenced, and could not have been renewed at present with any hope of success. More than has been secured by the present labors, the concessions of the last administration precluded us from demanding. But if this had not been so, more could not have been obtained.

In the letter of Mr Gallatin to Mr Clay of the 27th October, 1826, the meaning of the British act of Parliament of 5th July, 1825, which does not appear to have been previously understood by our Government, is fully and intelligibly explained. To ascertain the precise state of the regulations at that period, and the extent of the conditions and restrictions prescribed by the famous act of July, 1825, Mr Gallatin reviewed all the British statutes upon this subject and superadded the following observations:

“ From what precedes, it follows, first, that the restrictions which limits the importations in foreign vessels of goods into the British West Indies and American colonies, to ves-

sels of the country of which the goods are the produce, and coming direct from such country, having been revived by the navigation act of the 5th July, 1825, is still in force; secondly, that the restriction which limited the exportations in foreign vessels, of goods exported from the British West Indies and American colonies, to a direct exportation to the country to which such vessel did belong, is so far repealed as that such exportations in such vessels may be made to any country whatever, Great Britain and its dependencies excepted."

"Although there is no prospect that any arrangement will shortly take place on that subject, yet it is desirable to be prepared for any contingency. And I wish that the President would take into consideration whether, supposing an arrangement, either by convention or by mutual modification on both sides of existing laws or regulations, to be practicable, it would be proper, so far as relates to navigation, to agree to the terms contained in the acts of Parliament."

"The most important of the restrictions on the direct or circuitous trade, that which limited the exportation from the British West Indies in American vessels to the United States, has been repealed; and there remain but two—such exportations cannot be made in American vessels to Great Britain or her dependencies, a point on which we cannot insist, and which is already given up by the instructions; and the importations into those colonies of American produce, must, if made in American vessels, be direct from the United States. Is it necessary, on that account, to insist on the right of preventing British vessels, other than those coming direct from the colonies, from clearing from the United States for those colonies? Or, in other words, (for it is clear that with such restriction no arrangement is practicable,) is it worth while, on that account, to continue to cut off altogether, the intercourse between the United States and the British colonies? On that question I beg leave to submit two observations. First, the right of importing produce of the United States into British West Indies from other places than the United States; is in itself of no great value. It might occasionally be convenient, when the market of Cuba, or of other ports in the Gulf of Mexico, was glutted with American produce, to have a right to take it in American vessels to the British West India ports; but it is but rarely that these will not, from the same causes, be also glutted at the same time, and that the expense of a double voyage and freight could be incurred. Secondly, whilst contending for nominal reciprocity, we must acknowledge that the other party must consider how far this reciprocity will be real. It is now ascertained that four-fifths of the tonnage employed in our intercourse with Great Britain herself are American, and only one-fifth British. Considering the species of population, the climate, and commercial capital of the West Indies, and the distance of Great Britain, it is utterly impossible that the direct intercourse between the United States and the British West Indies should not, with equal duties and charges, be carried on in a still greater proportion in vessels of the United States. The only compensation, in that respect, to Great Britain, is to be found in the circuitous voyages which British vessels may make from that country through the United States and her West Indian colonies; and I feel quite confident—I think any man acquainted with the subject will be of the same opinion—that even granting them that privilege, will leave more than three fourths of the intercourse to our vessels."

"It will not escape you that the intercourse by sea between the United States and the British West Indies and North American colonies, has already been considered as necessarily connected together by the British Government, and that this connexion has been kept up in the acts of Parliament, in the articles proposed by Mr. Rush, and indeed in all former proposals on their part."

In consequence, as it may be supposed, of this explanation and advice from Mr Gallatin, our Government thenceforward abandoned whatever pretensions they may have previously set up beyond the acts of Parliament. In a letter from Mr. Clay, dated April 11th, 1827, containing further instructions to Mr Gallatin, he was informed—

“That the President is willing to recommend to Congress, at its next session, first, to suspend the alien duties on British vessels and cargoes, and allow their entry into our ports with the same kind of British or British colonial produce as may be imported in American vessels, the vessels of both countries paying the same charges; and, secondly, to abolish the restriction in the act of 1823 to the direct intercourse between the United States and the British colonies, leaving Great Britain in the exclusive possession of the circuitous trade between Great Britain proper, through her colonies, and the United States. Mr. Gallatin will inquire whether the passage of an act of Congress to that effect would lead to the revocation of the British order in council of July, 1827, to the abolition of the discriminating duties on American vessels in the British colonial ports, and to the enjoyment by our vessels of the advantages offered by the act of the 5th July, 1825.”

These propositions were communicated by Mr. Gallatin to the British Government, in a note to Lord Dudley, of the 17th of August, 1827; in which he remarks that “this mode would repeal all former acts of the American Government which had been objected to by Great Britain, fulfil the condition in the act of Parliament as now understood, and remove every obstacle in the way to an arrangement; but that it would be useless for the President to make such recommendation, without first ascertaining the intentions of the British Government;” and he therefore inquired “whether, upon the passage of such an act as the President proposes to recommend, the British Government would allow to American vessels the privileges of trade and intercourse, according to the act of the 5th July, 1825?” With these communications, it will be seen that my instructions, and the overture by me submitted on the 12th December last, and now assented to by Great Britain, are entirely coincident.”

I have been thus minute that the precise and uniform object of our negotiation with this Government should not be mistaken; and that the President, clearly and explicitly understanding these, may feel no hesitation, when executing the law, to interpret each particular clause in conformity with the obvious scope and design of the act.

Less difficulty, if possible, than on these points, can exist in regard to the entry of British vessels and their cargoes in the ports of the United States, from the islands, provinces, or colonies, designated in the second section of the act. According to Mr. Gallatin's despatch, “the intercourse by sea between the United States and the British West Indies and North American colonies, has already been considered as necessarily connected together by the British Government, and and that this connexion has been kept up in all the acts of Parliament.” It will not, therefore, be now separated. The general terms employed in this section are sufficiently comprehensive to embrace any description of entry; and in his instructions to the several collectors, the President may properly direct an entry similar to that specified in the first section of the bill, and in the spirit of our proposition.

Such, I presume, was the purpose of the law. I have, however, suggested to this Government, in answer to the difficulty felt upon this point, the possibility that these general terms may have proceeded from an apprehension of the existing discriminating duty of one dollar per ton on American vessels in these northern colonial ports. Should such be the case, it will not escape you that this duty is prescribed by the order of the King in Council in 1823, in retaliation of our law of that year; and that, by the terms of my proposition, it will be now abolished.

If the remaining words of apparent difficulty constitute a provision inconsistent with our proposition, and the act of the 5th July, 1825, I am obliged to confess myself incapable of comprehending either their object or meaning. I refer, of course, to the following clause: "*leaving the commercial intercourse of the United States with all other parts of the British dominions or possessions on a footing not less favorable to the United States than it now is.*"

Such a provision, or any thing resembling it, is now introduced, for the first time, into our legislation upon this subject. With all other parts of the British dominions, our commercial intercourse is regulated either by the convention with Great Britain, or, with the exception of the ports in the northern provinces, absolutely prohibited by acts of Parliament. No legislation on either side can affect the stipulations of the convention, and any relaxation of existing prohibitions must be beneficial.

This clause, as it stands, if it be not altogether nugatory and out of place, would seem rather to apprehend some evil, not understood or explained, from advantages to be conferred on our trade by G. Britain. In any view of the subject, however, it can properly relate only to the footing on which our commercial intercourse with other ports will be left at the time of conceding such advantages. Happily, therefore, with whatever object the clause may have been introduced, the President may issue his proclamation with every assurance that the correspondent acts on the part of this Government will leave "the commercial intercourse of the United States with all other parts of the British dominions on a footing not less favorable to the United States than it now is."

That you may have all the British acts of Parliament relative to this subject before you, and compare without difficulty the various provisions of the act of the 5th July, 1825, for the encouragement of British shipping and navigation, and of that of the same date regulating the trade with the British possessions abroad, I have the honor herewith to forward you "*Hume's Custom Laws,*" containing all that may be useful in your researches.

The observations of the Earl of Aberdeen relative to the scale of duties in favor of those interests incidentally fostered by the suspension of the intercourse between the United States and the West Indies, are less unfavorable than, at the date of my despatch of the 6th April, I had reason to apprehend. It was on the ground of this apprehension, principally, that, in my note to Lord Aberdeen of the 12th July last, I alluded so particularly to the acts of Congress reducing the duty on several articles of West India produce.

Though it may be probable that the schedule of duties adopted contemporaneously with the act of Parliament of the 5th July, 1825, will be hereafter modified, the effect must be more severely felt by the West India planter, already overburthened, than by our merchants; and in this there is a safe guarantee against any excessive alteration. There is good reason to believe, moreover, that such modification, whenever it shall be made, will consist in reducing the duty on some important articles, while it may increase it on others; and that our trade, in the aggregate, will not be materially affected. This modification, however, is not a part or condition of the present arrangement, and will therefore depend upon future contingencies, of which each nation will be free to take advantage; and ours, particularly, to resort to countervailing duties, if that course be deemed expedient.

On this question, we will always have the West Indian interest on our side; and that, after the concessions heretofore made, is all we can expect. The arrangement now proposed will restore to our vessels the direct trade with the British colonial ports, and place the navigation of both countries in that trade upon an equal footing. We may safely rely upon the skill and enterprise of the American merchants to accomplish the rest.

I need scarcely refer to the period for which this question has embarrassed the trade of our citizens, and the relations of the two countries, nor to the numerous failures which have attended the efforts of our Government to adjust it. But it ought not to be forgotten that, in producing these failures, technical interpretations and misapprehension of legal provisions have had their full share. Sensible of this, I felt it my duty to guard, if possible, against their recurrence; and after the solicitude and perseverance with which I have conducted the negotiation, I could not shun the responsibility of attempting to reconcile the apparent obscurities of the law with the clear and frank object of our Government. I am happy to believe, moreover, that, in the attempt, I am fully sustained by the soundest principles of construction. In any event, I shall feel conscious that, with the sincerest desire to conform to the instructions and sustain the character of the Executive, I have faithfully contributed to succor the enterprise of my fellow-citizens, and to place the foreign relations of the country upon a foundation of lasting harmony.

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

LOUIS McLANE.

To the Hon. Martin Van Buren, Secretary of State, Washington.

124. *The Earl of Aberdeen to Mr. McLane.*

Explanation of the Construction relative to the Consent of the British Government to restore, to the Vessels of the United States, a Direct Intercourse with Her American Colonies.

Foreign Office [London] Aug. 17, 1830. The undersigned, His M.'s principal Secretary of State for Foreign Affairs, has the honor to acknowledge the receipt of the note of Mr. McLane, Envoy Extraordinary and Minister Plenipotentiary from the United States of America to this Court, dated the 12th of July; communicating certain measures which have been adopted by Congress with a view to remove the obstacles which have hitherto impeded the re-establishment of the commercial intercourse between the United States and the British West India colonies

Previously to the receipt of this communication, his Majesty's Government had already had under their consideration Mr. McLane's note of the 16th March last, explanatory of the proposition contained in his letter of the 12th of December, 1829, with reference to the same subject; and the undersigned assures Mr. McLane that his Majesty's Government, in the earnest and dispassionate attention which they bestowed upon this proposition, were actuated by the most friendly feelings towards the Government of the United States, and by a sincere disposition to meet the proposals which he was authorized to make in the spirit with which they were offered.

But the undersigned considers it unnecessary now to enter into any detailed discussion of the points embraced in those previous communications of Mr. McLane, because they are in a great measure superseded by the more specific, and therefore more satisfactory propositions contained in his note of the 12th July; to the contents of which note, therefore, the undersigned will principally confine his present observations:

Of the character and effect of the recent measure of the American Congress, Mr McLane observes that "it concedes in its terms all the power in the regulation of the colonial trade, and authorizes the President to confer on British subjects all those privileges, as well in the circuitous as the direct voyage, which Great Britain has at any time demanded or desired."

In this declaration the undersigned is happy to observe the same spirit and disposition which dictated Mr. McLane's former communications, wherein he announced the readiness and desire of the American Government "to comply with the conditions of the act of Parliament of 1825," and also that the claims advanced in justification of the omission of the United States to embrace the offers of this country, have been abandoned by those who urged them, and have received no sanction from the people of the United States:" and the undersigned readily admits, that if the bill passed by the American Legislature be well calculated practically to fulfil the expressed intentions of its framers, it must have the effect of removing all those grounds of difference between the two Governments, with relation to the trade between the United States and the British colonies, which have been the subject of so much discussion, and which have constituted the main cause of the suspension of the intercourse by those restrictive acts of the United States which the American Government is now prepared to repeal.

The proposition now made by Mr. McLane for the revocation of the order in Council of 1826 stands upon a ground materially different from that on which the same question was brought forward in the notes of Mr. Gallatin in 1827, and and even in the more explanatory overtures of Mr. McLane contained in his communications of December 1829, and March, 1830.

Those several proposals were, all of them, invitations to the British Government to pledge itself, hypothetically, to the revocation of the order in Council, in the event of a repeal of those acts of the American Congress which gave occasion to it. His Majesty's Government declined to give that prospective pledge or assurance, on the grounds stated in Lord Dudley's note of the 1st October, 1827. But the objections then urged are not applicable to the present overture. Provision has now been made by an act of the American Legislature for the re-establishment of the suspended intercourse upon certain terms and conditions; and that act being now before his Majesty's Government, it is for them to decide whether they are prepared to adopt a corresponding measure on the part of Great Britain for that object.

The undersigned is ready to admit that, in spirit and substance, the bill transmitted by Mr. McLane is conformable to the view which he takes of it in the expression before quoted from his note of the 12th July; and that it is calculated, therefore, to afford to Great Britain complete satisfaction on the several points which have been heretofore in dispute between the two countries. He has also received, with much satisfaction, the explanation which Mr. McLane has afforded him verbally, in the last conference which the undersigned had the honor of holding with him, upon those passages in which the wording of the bill appears obscure, and in which it seems at least doubtful whether the practical construction of it would fully correspond with the intentions of the American Government, as expressed by Mr. McLane. But it is nevertheless necessary, in order to remove all possibility of future misapprehension upon so important a subject, that he

should recapitulate the points upon which those doubts have arisen, and distinctly state the sense in which the undersigned considers Mr McLane as concurring with him in the interpretation of them:

The first point in which a question might arise is in that passage of the bill wherein it is declared, as one of the conditions on which the restrictions now imposed by the United States may be removed, "that the vessels of the United States, and their cargoes, on entering the ports of the British possessions, as aforesaid, (viz: in the West Indies, on the continent of America, the Bahama islands, the Caicos, and the Bermuda or Somer islands,) shall not be subject to other or higher duties of tonnage or impost, or charges of any other description, than would be imposed on British vessels, or their cargoes, arriving in the said colonial possession *from the United States of America.*" It is not quite clear whether the concluding words "from the United States of America," are meant to apply to the vessels of the United States, and their cargoes, in the first part of the paragraph, as well as to those of Great Britain or her colonies in the latter part.

It can scarcely, indeed, have been intended that this stipulation should extend to American vessels coming with cargoes from any other places than the United States, because it is well known that, under the navigation laws of Great Britain, no foreign vessel could bring a cargo to any British colonial port from any other country than its own.

The next condition expressed in the act is, "that the vessels of the United States may import into the said colonial possessions from the United States, any article or articles which could be imported in a British vessel into the said possessions from the United States.

In this passage, it is not made sufficiently clear that the articles to be imported on equal terms by British or American vessels from the United States, *must be the produce of the United States.* The undersigned, however, cannot but suppose that such a limitation must have been contemplated, because the clause of the navigation act already adverted to, whereby an American vessel would be precluded from bringing any article not the produce of America to a British colonial port, is not only a subject of universal notoriety, but the same provision is distinctly made in the act of Parliament of 1825, which has been so often referred to in the discussions on this subject.

It was also necessary that the undersigned should ask for some explanation of that section of the bill which has reference to the entry of vessels into the ports of the United States from the continental colonies of Great Britain in North America.

These are not placed, in the terms of the act, on the same footing as the ships coming from the colonies of the West Indies.

With respect to the latter, the express provision made for the direct intercourse with those colonies, together with the simultaneous repeal of the several American acts which interdict, at present, the carriage of goods from the United States to West Indian ports, in ships having arrived from other ports in the British dominions, appear fully to warrant the expression, before quoted, of Mr McLane, "that the act would confer on British vessels all those privileges, as well in the circuitous as in the direct voyage, which Great Britain has at any time demanded."

But, with regard to the continental colonies, there is merely a provision for "admitting to entry, in the ports of the United States, British vessels or their car-

goes from the islands, provinces, or colonies of Great Britain, on or near the North American continent, and north or east of the United States." It must indeed be presumed that vessels from these colonies are intended to be admitted upon the same terms, in all respects, and to be entitled to the same privileges, as British ships from any other British colony.

The act of Congress requires, as a further condition, that, when the intercourse with the West India colonies shall be opened by Great Britain, "the commercial intercourse of the United States with all other parts of the British dominions or possessions shall be left on a footing not less favorable to the United States than it now is."

Although it may be most truly stated that there exists, at this time, no intention to make any alteration in the commercial policy of Great Britain, and equally that there is no disposition on the part of His Majesty's Government to restrict, in any measure, the commercial relations between this country and the United States, yet the positive condition to maintain unchanged, or upon any particular footing of favor, every part of our system of trade affecting our intercourse with America, could not, with propriety, be made the subject of any specific engagement, connected with the renewal of the colonial intercourse. Whether that intercourse be renewed or not, it ought to remain at all times as free as it now is, both to the government of Great Britain and to that of the United States, to adopt, from time to time, such commercial regulations as either State may deem to be expedient for its own interests, consistently with the obligations of existing treaties.

It is due to the candor with which the communications of Mr McLane have been made on this subject, that the undersigned should be thus explicit in noticing the passage in the bill to which he has now adverted.

Mr McLane, in his note of the 12th ultimo, has described and explained the material diminution which has been made in the duties payable in the U. States on the importation of certain articles of colonial produce. This measure has been viewed by his Majesty's Government with sincere satisfaction, as indicating a disposition to cultivate a commercial intercourse with his Majesty's colonies upon a footing of greater freedom and reciprocal advantage than has hitherto existed. But the undersigned must frankly state, that, in the general consideration of the question now to be determined, no weight ought to be assigned to the reduction of those duties, as forming any part of the grounds on which the re-establishment of the intercourse may be acceded to. Those changes are part of the general scheme of taxation which the government of America may, at all times, impose or modify, with the same freedom as that which Great Britain may exercise in the regulation of any part of its system of duties; and it is the more essential that his Majesty's Government should not contract, by implication, any engagement towards that of the United States with respect to such alterations, because his Majesty's Government have already had under their consideration the expediency of introducing some modifications into the schedule of duties attached to the act of Parliament of 1825, with a view more effectually to support the interests of the British North American colonies.* To those interests, fostered, as they have incidentally been, by the suspension of the intercourse between the United States and

* See page 159, of this volume.

the West Indies, his Majesty's government will continue to look with an earnest desire to afford them such protection by discriminating duties as may appear to be consistent with the interests of other parts of His Majesty's dominions, and with a sound policy in the commercial relations of this country with all other States.

The undersigned has thought it desirable that this point should be distinctly understood on both sides, in order that no doubt should exist of the right of Great Britain to vary those duties from time to time, according to her own views of expediency, unfettered by any obligation, expressed or implied, towards the United States or any other country.

The undersigned adverts again with satisfaction to the verbal explanations which he has received from Mr McLane of those passages in the act of Congress which have not appeared to the undersigned to be literally adapted to the provisions of the act of Parliament of 1825. He concurs with Mr McLane in thinking that these will be found to have been merely apparent deviations from the conditions of that statute, because the whole of the recent proceedings of the American Government and Legislature in this matter have been manifestly and expressly founded upon a determination to conform to it. Any other view of the subject would be entirely at variance with the tenor of the several communications from Mr McLane before adverted to, which have all been conformable to the explicit proposition contained in his note of the 12th December, 1829, "that the Government of the United States should now comply with the conditions of the act of Parliament of July 5, 1825; by an express law, opening their ports for the admission of British vessels, and by allowing their entry with the same kind of British colonial produce as may be imported in American vessels, the vessels of both countries paying the same charges; suspending the alien duties on British vessels and cargoes, and abolishing the restrictions in the act of Congress of 1823 to the direct intercourse between the United States and the British colonies, and that such a law should be immediately followed by a revocation of the British order in Council of the 27th July 1826, the abolition or suspension of all discriminating duties on American vessels in the British colonial ports, and the enjoyment, by the United States, of the advantages of the act of Parliament of the 5th July, 1825." It only remains, therefore, for the undersigned to assure Mr McLane that, if the President of the United States shall determine to give effect to the act of Congress, in conformity with the construction put upon its provisions both by Mr McLane and by the undersigned, all difficulty on the part of Great Britain, in the way of a renewal of the intercourse between the United States and the West Indies, according to the foregoing proposition made by Mr McLane, will thereby be removed.

The undersigned has the honor to renew to Mr McLane the assurances of his highest consideration.

ABERDEEN.

Louis McLane, Esq. &c. &c. &c.

125. *Claims against the French Government, for Spoliations on American Commerce, since September, 1800.*

Condensed from Lyman's Diplomacy, and from Official Papers.

In 1793, the French began to capture our vessels, irritated at the course, pursued by this government. And as early as September of the next year, we find the claims arranged under separate heads, though there are no means within reach of ascertaining the precise amount of each class.

1. Injuries by the embargo at Bordeaux, July 1793;—the number of vessels detained under this act said to be 103.
2. For supplies furnished St. Domingo.
3. Cargoes of provisions, &c. detained for delay of payment.
4. Vessels detained by cruisers of the French republic in violation of the treaty of '78.
5. Vessels taken at sea as above.

The demands on France kept continually increasing to the close of the century, principally, however, for depredations in the West Indies. These claims, as created to the close of the century, were finally renounced on the part of the U. S. by the 2d article of the convention of 1800, provided France abandon all her pretensions on the score of a guaranty. By this act the American government virtually assumed the demands of its own citizens. Not only the constitution forbids the government from taking "private property" for public use "without just compensation," but, in this case, a full equivalent, the surrender of the guaranty, was made by France for the adoption of the claims by the United States. But hardly was the instrument signed, when fresh claims arose on the construction of the provision; intended to constitute a final settlement. No one would have supposed that an article, inserted in a convention for the purpose of bringing this troublesome business to a close, would have made it necessary for our own government to enter into immediate explanations in behalf of its own citizens, or that 20,000,000 of livres would have remained more than twenty years in the coffers of our treasury; expressly reserved, by a subsequent convention, for the payment of a portion of these claims. The restitutions, demanded by the United States, under the 4th article of the convention of 1800, comprised three descriptions of cases:

1. Cases of capture, where no judicial proceedings were held.
2. Cases not definitively decided on, in French tribunals, the 30th September, 1800.
3. Captures made, subsequent to that date.

Under the 3d and 4th articles these claims were just, and to withhold the property, was, on the part of France, an act of complete injustice. It has been said, that by the 2d article of the convention of 1800, the United States adopted all the claims of its citizens, subject to the three reservations above written. This constitutes the first period in the history of these claims.

Then, as the next period, we have the third convention of 1803, by which this government agreed to assume claims on France, prior to the 30th September, 1800, for 20,000,000 livres, no settlement having been made of the disputed points under the convention of 1800.

In less than a year after the convention of 1803, instructions were sent to the minister in France to desire the French government to suspend all draughts in favor of persons, whose claims might have been liquidated, till all the claims were ascertained, and to propose a convention for the purpose of including, within that of 1803, the unsettled matters of 1800, or to distribute the 20,000,000 livres, provided by the convention of 1803, and make France debtor for such balance, as might exceed that sum; an arrangement we could not suppose France would be much disposed to accept. After the proofs we possessed of the extreme unwillingness of that government to satisfy the undeniable claims of our citizens,—to execute the 3d and 4th articles of the convention of 1800, it was a degree of generous confidence, by no means desirable or necessary among nations, to leave any point, whatever, for future discussions, particularly as the mode, in which American creditors were likely to be treated, was well known to Mr Livingston in March, 1802. We find him in that month writing to this effect to the government:

“As to the contract demands, the Minister of Marine told me, I might as well ask him to cut off his father’s head, as to ask payment. However, on this subject I shall be better informed, when they reply to my note. I believe that they may possibly put the debt upon their 5 per cent. loan, which is now at 57, but will, in that case, fall considerably; so that, at most, the creditor, after waiting many years, will sink half his debt; but, as they hint, necessity has no law.”

And, in the following May, [1802,] Mr. Livingston to the Minister of Exterior Relations:

“I find every possible obstruction thrown in their way: first in the liquidation of their debts, and next in affording a fund for their payment, when, after a tedious and expensive process, the debt is liquidated, I see the Board of Compatibility extending to part of them a law, which, at the present price of stock, would rob them of five-sixths of their capital; a law, which repeated declarations of past legislatures have shown not to have been intended to comprise foreigners, and in which they could not have been comprised without the most flagrant violation of public faith, but which, in every event, is superseded by the fifth article of the treaty, which expressly stipulates for the discharge of their debt.

“I see the commercial capital of my fellow-citizens, the only means of their subsistence, withheld from them till the interest is equal to the principal sum, and yet no allowance made for that interest in the liquidation of the account. I see others of them, after sustaining heavy losses by the destruction, committed at St. Domingo, compelled to become creditors of France by an act of power. And while the agent of France, in America, is declaring to the government of the United States, that every measure of justice is offered by the prize courts to the claimants here, I see those very claimants reduced to beggary by their decisions.—

“You will admit, sir, that the attempt to include the American creditor in the list of those, who have had two-thirds of their debt struck off, and the total silence of the Boards, with respect to the interest, are not calculated to inspire confidence or to revive credit.”

It never could have been said, that the convention of 1803 was an instrument to carry into execution the provisions of the one of 1800. It should, rather, be called a convention of exceptions to that, for no claim could be allowed under it, unless falling within some one of the following conditions:

1. Whether the debt was due in its origin to an American citizen.
2. Whether it existed before the 30th September, 1800.
3. Has such an American citizen established a house of commerce in foreign countries, in partnership with foreigners.
4. Can he, by the nature of his commerce, be considered as domiciliated abroad.
5. Has he, under the circumstances of his case, a right to the protection of the United States.
6. Was the merchandise, or other property, American, when it passed into the hands of the French government.
7. Does the claim arise from supplies, embargoes and captures made at sea, excluding from the word supplies freight, indemnity and demurrage, except where they are claimed as incidental to embargoes.

In 1804 Mr Livingston was instructed to negotiate a convention, *additional to* that of 1803, for the purpose of removing doubts on the subjects of freights and indemnities. 2. To provide compensation for the separate property of American citizens, connected with foreign partners; 3. and also for those vessels, that were taken after the convention of 1800, and before its ratification. To this proposition the following answer was made by the Minister of Exterior Relations :

“ You will not have forgotten, that it was then agreed upon, between the two governments, to place, under the charge of the United States, all the claims of Americans upon France, and to make an approximate valuation of them. The respective plenipotentiaries agreed to take, as a basis, the sum of all the claims, as well liquidated as unliquidated, which have been presented to the French government by the Americans;—this sum amounted to twenty millions, and as there was room to expect, that the unliquidated portion would undergo some reduction, the American plenipotentiaries were persuaded, that even by admitting afterwards some claims, which might not have been comprehended in the list, this addition of claims, compensated by the reduction that others would undergo at the time of the liquidation, could never exceed 20,000,000, the whole amount. .

“ It was in consequence of these dispositions, that some months ago you demanded the admission of different claims, which had not been inscribed upon the list of liquidation: the French government has shown itself disposed to consent thereto to the amount of twenty millions, so that they do not at any time hereafter exceed this sum, and that no part of the American claims be placed to the account of France.

“ In adhering to these dispositions, conformable to the treaty of 10th Floreal, (1 May) and from which his Imperial Majesty will not deviate, any explanatory convention would be superfluous, and the intention of his Imperial Majesty is to keep from all future question an affair completely terminated. The convention of the year 11 (1803) foresaw the whole case; the whole of the American claims are to be placed to the account of the federal government; a list of them has been made. The liquidation of the articles, of which it is composed, shall be decided before the rest, if it does not reach the sum of twenty millions; other claims will be comprehended therein, but none shall be, which exceed this sum, because it is at this point that the two governments are agreed to stop.”

The convention of 1803 did not debar any citizen from pursuing such claim, as he might have posterior to September 30, 1800;—the exercise of this right was secured by a special stipulation. During the nominal war, that existed with France towards the close of the last century, we captured from that power 83 vessels;—11 were acquitted not being found armed, and 68 condemned, half to the captors and half to the United States,—all national vessels were either paid for, or restored. A memorial was, however, transmitted to the government, requesting that these vessels might be withheld, till it was ascertained whether France would make proper provision for the claims of their citizens.

The year 1806, the commencement of the continental system, is the next and third period of the history of the claims, but a class of an entirely different description was created under these various and hostile acts of the French government, of which the Berlin decree was the first. It has been stated in debate in Congress that the claims, prior to 1806, exceeded in amount 200,000,000 of dollars,—they do not probably exceed 12 or 14,000,000. They were estimated by the envoys in France in 1803, at 20,000,000, but various deductions must be made from that sum such as claims discharged by the council of prizes or commissioners,—previous payments,—payments from the Louisiana purchase money,—claims without proofs, &c. Against these pecuniary claims the French government set off various demands of a pecuniary, political, and mixt description,—such as injuries, resulting from refusal to execute the guaranty of '73,—from the President's proclamation of neutrality of 1793,—denying asylum to privateers and their prizes, and numerous indulgencies granted to British ships of war, contrary to the treaty of alliance.

126. *Extract from Mr Gallatin's Exposition of the French Claims in 1816.*

Claims, arising under the Berlin, Milan, Rambouillet, and other decrees of the imperial government of France from 1806 to 1810:

“The right to an indemnity, being founded on the law of nations, extends to all cases, where there has been an evident infraction of that law, such as is recognised by civilized nations.

“Of the acts of the former French government, openly violating that law; those issued on the 21st November 1806, at Berlin, and on the 17 December 1807, at Milan, were promulgated in the shape of public decrees, applicable, at least, nominally, to other nations, as well as the United States. Other acts were, exclusively, directed against America; appearing, also, sometimes under the form of decrees, as that of Bayonne, of the 17th April 1808, and that of Rambouillet, of the 23d March 1810; and, at times, being only special orders for seizing or selling certain American vessels and cargoes. To these various acts, must be added the wanton destruction, at different times, of American vessels on the high seas.

“That the Berlin and Milan decrees, so far as they declared liable to capture and condemnation neutral vessels, pursuing an innocent commerce, and contravening no municipal laws, were an evident violation of the law of nations, has not been, and cannot be, denied. The plea of retaliation, grounded on a supposed acquiescence of neutral powers in certain acts of Great Britain, and urged in justification of those decrees, was unjust in its principle, and altogether inadmissible, when affecting a neutral instead of an enemy. And, even that pretence for plun-

dering a friendly power was abandoned, when the two belligerent governments, whilst continuing to capture the vessels of the neutral trading with their respective enemy, permitted a direct commerce, by means of licenses. But that plea was, in point of fact, destitute of foundation with respect to the United States. That they had uniformly opposed the aggressions of Great Britain, on their neutral rights, is notorious. It is not less true, and appears from all the public acts and from the tenor of their negotiations with both belligerents, that it was solely owing to the acts of France, to the Berlin and Milan decrees, that still more decisive measures of resistance were not early adopted against Great Britain. So long as France and England equally continued to violate the neutral rights of America, she could not have selected either of those nations for an enemy, without tamely submitting to the aggressions of the other, and without deviating from that impartial course, which it was her constant endeavour to pursue. And when, at last, the French decrees had been revoked, so far as America was concerned, the perseverance of England in continuing her unlawful orders, and in violating the rights of the United States, produced a declaration of war on their part, against that country.—

“Not only were the Berlin and Milan decrees an evident and acknowledged violation of the law of nations; not only the plea of retaliation against England, and of a presumed acquiescence in her aggressions was unfounded, with respect to the United States; not only neither the treaties between France and the allied powers are binding on America, nor the principles adopted in those treaties applicable to the relations in which she stood towards France; but those decrees were also an open infraction of the treaties subsisting between the two countries; namely, of the 12th, 13th and 14th articles of the convention of the 30th of September 1800, which did not expire till the 31st of July 1809. For, it was therein stipulated, that the citizens of either country might sail with their ships and merchandise (contraband goods excepted) from any port whatever, to any port of the enemy of the other, and from a port of such enemy, either to a neutral port, or to another port of the enemy, unless such port should be *actually* blockaded; that a vessel sailing for an enemy's port without knowing that the same was blockaded, should be turned away, but neither be detained, nor her cargo be confiscated; that implements and ammunition of war, should alone be considered contraband of war; and that free ships should make free goods, extending that freedom even to an enemy's property, on board the ships belonging to the citizens of either country. The French decrees, in violation of those stipulations, after having declared the British islands and possessions in a state of blockade, although they were not pretended to be *actually* blockaded, made liable to capture and condemnation all American (as well as other neutral) vessels sailing on the high seas, from or to an English port, or even, which might have been visited by an English vessel, as well as every species of merchandise belonging to English subjects, or of English origin.—

“With respect to property actually condemned, without intending to impair the indisputable right of the United States, to an indemnity for every condemnation made by virtue of decrees, violating the acknowledged law of nations, I will beg leave to add some observations on the manner in which those decrees were executed, for the purpose of showing that an investigation and revision of those

condemnations ought to take place, even, if it was admitted that France had a right to issue the Berlin and Milan decrees, and to condemn vessels contravening their tenor. The time necessary to obtain information in that respect, has occasioned the delay which has taken place in making this communication, since the last conference I had the honour to hold with your excellency.

“1. These condemnations have, as has already been stated, been made in contravention of an existing treaty; so far at least as relates to property seized or captured prior to the 31st of July 1809.

“2. Several of the condemnations, or rather acts of confiscation, were made by what has been called “imperial decisions,” meaning thereby not those cases where an appeal may have been made from the council of prizes to the council of state, but those instances where the order of condemnation issued from that council, or from Napoleon himself, without any previous regular trial and condemnation by the council of prizes. Such proceedings must be considered as irregular and arbitrary acts, contravening the usages and law of nations. It is sufficiently hard for the neutral that his property should be tried exclusively by the tribunals of the belligerent, where a natural bias exists in favour of the captors. It is at least necessary that the decisions should be made by a regular and permanent tribunal, acting according to fixed rules, and affording every security of which such an institution is susceptible. But the United States have a right to demand that these imperial decisions should be annulled not only as contravening the usages and law of nations, but as violating also an existing treaty. It had been stipulated by the 22d article of the convention, of the 30th September 1800, “that in all cases the established courts for prize causes in the country to which the prizes might be conducted, should alone take cognizance of them.” Of twenty-seven vessels and cargoes (captured or seized prior to the 1st of November, 1810) which, as appears by a list now before me, were condemned by imperial decisions, eighteen had been seized or captured, prior to the 31st of July 1809, the day on which the convention expired.

“3. I have been assured that, upon investigation, it will be found that some of the decisions of the council of prizes itself, have taken place, without observing the forms prescribed by law; without giving opportunity to the parties of bringing their proofs; without an examination of the ship papers, and, in fact, in obedience to an imperial order. A decision of the council, dated 10th September 1811, and by which six ships and cargoes were at once condemned, is particularly mentioned.

“4. The retrospective operation of the Rambouillet decree has already been mentioned. It will also be found that, in several instances, the Milan decree has received a similar construction, and that vessels have been condemned for having contravened that decree, which could not have known its existence, having sailed from American ports either before, or a short time after, it had been issued, and the alleged infraction of the decree itself having, at least in one instance, taken place prior to its date.

“5. It might have been expected, that, when the Berlin and Milan decrees were declared to be revoked from and after the 1st November 1810, no farther condemnations would take place with respect to cases not yet decided at that time; notwithstanding which, it appears that forty-eight ships and cargoes, previously

seized or captured, were condemned subsequent to that day, namely, by the council of Prizes, eighteen before, and ten after, the 28th of April 1811; and by imperial decisions, eleven before, and nine after, the last mentioned day. Yet the decrees of that day (28th April 1811) enact and declares, that the Berlin and Milan decrees are, from and after the 1st November 1810, definitively considered, as if they had not existed (*comme non avenues*) with respect to American vessels.

"G. Several condemnations were made for frivolous pretences, of vessels captured after the 1st November 1810, or, in other cases which the general decrees could not reach; such as alleged irregularities in the certificates of origin, or in ship papers; presumed navigation under the British convoy; mutiny on board; intention to remit the proceeds of sales through England.

"It appears from the preceding statement, that, independent of the illegality of the Berlin and Milan decrees, there is sufficient cause for revision of the condemnations which have taken place. Nor is there any thing novel in that course. A number of unlawful captures of American vessels having been made by Great Britain during the commencement of her war with France, particularly by virtue of certain British orders in council, of the 6th November 1793, it was agreed, by the 7th article of the treaty of November 1794, between the United States and England, that full and complete compensation should be made by the British government for the losses and damage sustained by citizens of the United States, by reason of *irregular or illegal captures or condemnations* of their vessels and other property, under colour of authority or commissions from his Britannic majesty; and a sum exceeding twelve hundred thousand pounds sterling, in specie, was actually paid to American citizens, by the decision of the joint commission appointed in conformity with the said treaty.

"From this view of the subject, I have the honor to propose to your excellency an arrangement founded on the following basis, in which, without abandoning the just rights of the citizens the United States, a positive stipulation is avoided, which would, at this time, bind the government of France to make compensation generally for all the condemnations under the Berlin and Milan decrees.

"1st. That the government of France will engage to make compensation to the citizens of the United States: 1. For all vessels and cargoes captured, seized, or sequestered, which have not been definitively condemned by the Council of Prizes, and the proceeds of which were placed either in the public treasury, in the *caisse d'amortissement*, or in any other public chest; and also for all vessels and cargoes destroyed at sea, and likewise not condemned by the Council of Prizes: 2. For the losses sustained by reason of such other irregular or unlawful seizures, captures, or condemnations, as will be decreed, by a joint commission, to have been made contrary to public law and justice, or in contravention of existing treaties.

"2d. That a joint commission (or commissions) shall be established, with power, 1. To liquidate the amount due for property either destroyed at sea, or sequestered and not definitively condemned as aforesaid: 2. To decide in what other cases of irregular or unlawful seizures, captures, or condemnations, the government of France is justly bound to make also compensation, and to what amount."

In the summer of 1817, M. de Richelieu informed Mr Gallatin, he wished it understood, that the postponement for spoliations was not a rejection, that a por-

tion of them was considered as founded in justice, that he was not authorized to commit his government by any positive promise, but that it was their intention to make an arrangement for the discharge of just demands, as soon as they were extricated from their present embarrassments: still he insisted on his former ground that they could not, at present, recognise, or adjust its amount.

127. *Extract from Mr Gallatin's Last Letter, on the French Claims, to the French Government.*

"I have special powers to negotiate a convention, providing for the just claims of citizens of the United States against France, as also for the like claims of French subjects against the United States, with such person or persons, as may have a like authority from his most Christian Majesty.

"As minister of the United States, I am authorized to discuss the question, respecting the construction of the 8th article of the Louisiana treaty, and to give and receive explanations on that subject. But the negotiation on that point, having been transferred to Washington, no special powers in that respect have been transmitted to me. I had understood in the course of the conference, I had the honour to have with your excellency on the 23d of September, and had accordingly written to my government, that it was not intended to insist, that that subject should be blended with that of private claims. It is, indeed, obvious that it would be utterly unjust to make the admission of these to depend on the result of a negotiation on a subject, with which they have no connexion whatever, and the difficulties, respecting which, are of a date, posterior to that of the claims.

"All the representations, which his majesty's government has made to that of the United States, whether on private or on public subjects, have uniformly been taken into consideration and received that attention, to which they are so justly entitled. In no instance has the government of the United States declined to open a discussion on any subject thus offered to their consideration by France, or made it a preliminary condition, that the discussion should, also, embrace some other subject, in which they might happen to take a greater interest. The question, respecting the 8th article of the Louisiana treaty, has in particular been the subject of a voluminous correspondence in the course of which the arguments in support of the construction, insisted on by each party respectively, were made known to the other. I have, in the mean while, for six years, made unceasing applications to his majesty's government for the settlement of claims to a vast amount, affecting the interest of numerous individuals, and arising from flagrant violations of the law of nations and of the rights of the United States, without having ever been able to obtain, to this day, satisfaction in a single instance, or even that the subject should be taken into consideration and discussed. After so many vexatious delays, for which different causes have at different times been assigned, it cannot now be intended again to postpone the investigation of that subject by insisting that it should be treated in connexion with one foreign to it, and which has already been discussed. The United States have, at least, the right to ask, that their demands should, also, be examined and discussed, and, I trust, that since I am authorized to treat, as well concerning the claims of French subjects against the United States, as respecting those of American citizens against France, a distinct negotiation to that effect will be opened without any further delay."

128. *Extracts from the General Instructions of the Hon. M. Van Buren to Wm. C. Rives, Esq. Dated, Washington, 20th July, 1829.*

From Official Documents, Communicated to Congress.

—Assuming, what should not be contended, that one nation can find its justification for her disregard of claims of admitted justice in a similar delinquency on the part of other nations, still the circumstances of the different cases would not, in this instance, allow France to screen herself behind so ungracious a pretension. It was, among other causes, for the aggressions upon our commerce under the orders in council, that the United States made war upon Great Britain; and, having negotiated a peace without stipulation for indemnity in that particular, her case is widely distinguishable from that of France. If we were now to prefer a claim against France for the many millions of which the citizens of the United were despoiled by her previous to the year 1800, and for which no provision was made by the treaty of that year, there might be some analogy in the cases, and, consequently, more force in the argument. The character of Murat's domination in Naples, too, furnishes a pretext to that Government to delay doing us justice, of which France cannot avail herself; to say nothing of the influence which she herself had in causing the injuries of which we complain, and the consequent impropriety of all attempts to shelter herself under the cover of the Neapolitan aggressions.

The alleged irresponsibility of the present Government of France for the acts of those which have preceded it, is matter of graver import, and, if it could be sustained, would be an objection that would strike at the root of all our claims. The first consideration worthy of notice, is the manner in which this widely operative doctrine has been advanced by France. It was not until the discussion had continued for rising of a year between the Duke of Richelieu and Mr Gallatin, that the former ventured to broach a doctrine so flagrantly unjust, and then it was done hesitatingly, and in an informal conference. To the present day, notwithstanding the discussions upon the subject of our claims have been carried on with no less than eight different Ministers of Foreign Affairs, the principle has never been distinctly avowed in the official communications of the French Government. Of the extent to which the acting Governments of France, upon whose act the claims of our citizens are founded, were acquiesced in by the French people, and recognized by other nations, it cannot be necessary to say any thing. The facts are familiar to you, are known to the world, and cannot be made matters of contestation. That the present Government of France, is, by the established principles of public law responsible for these acts, is not, at this day, an open question among civilized nations. The consequences of an opposite doctrine would strike at the root of all confidence in the dealings between different nations. If a people could discharge itself of its obligations by changing a Government of its own establishment, or which it had made legitimate by its acquiescence, all security for national transactions would be at an end, and one of the greatest advantages which has been produced by the lights of civilization and improvement defeated. There are no Governments in Europe to which France could look for countenance in maintaining such a doctrine, for there are none who have not themselves acted upon a different principle.

The doctrine advanced is no less inconsistent with her own conduct. In the indemnity made by her to the principal powers of Europe, in the years 1814 and 1815, not only France, but all those powers, gave their assent in the most solemn manner to the principle for which the United States contend. It is in vain to say that those indemnities were for the debts of the preceding Government, and not for spoliations, or to refer to the condition of France at that period. There were reasons of the most imperative character, to which it is not necessary to make to you particular references, and which are not applicable to the United States, why the abandonment of claims for spoliations on their part, should not furnish a rule for the adjustment of those of which we complain; and France will not, it is believed, avow even now, that those who came to deliver her from oppression, availed themselves of their power to increase that oppression, by making France responsible, without right for injuries which they themselves had received from the same source. So far from that being then supposed to be the case, the principle of indemnity was claimed by the allies, and distinctly admitted by the French plenipotentiaries. Whatever deductions the allied powers might, for various reasons, see fit to make from the amount of their claims, the fact that whatever was allowed was claimed and paid upon the avowed and uncontested principle of the responsibility of the present Government of France for the acts of the former Government, is in no sense doubtful. It is only so far that these transactions are entitled to a bearing upon the present question, and their influence should be deemed obligatory. Even with the United States does France act upon a different principle. Upon what grounds, other than that the present Government succeeds of right to all the advantages secured to France by stipulations made in favor of the former Government, is it, that her claims under the eighth article of the Louisiana treaty are founded; and could she allow herself to contend that she should be permitted to reap all the advantages accruing from the acts of the preceding Government, without being subject, also, to the liabilities and disadvantages flowing from the same source? She has, also, in the administration of her internal affairs, in many instances, and in the most solemn manner, given her assent to the obligatory character of the acts of the sovereign authority for the time being. Upon what other principle have the sales of the national domains, and of the estates of the emigrants, been confirmed, or the latter indemnified for the property of which they had been divested by a former Government! These were two of the most important acts of the existing Government, and both find their justification in the same principle.

The President is not insensible to the considerations of delicacy that belong to the subject, and which grow out of past transactions, in which the present reigning family of France have been made to suffer by the same power against whose acts we now call upon them to indemnify us; nor is he unwilling to give to that circumstance all allowable influence. If entitled to any weight at all, it can only be as to the amount of remuneration upon which the United States should insist; for it must not be forgotten, that, in respect to them also, the doctrine contended against has bearings steering wide of, and of infinitely greater importance, than the subject under discussion. The same principle which would exonerate France from her liability for the claims in question, could, with equal propriety, be made hereafter the pretext for questioning our title to territories which constitute two of the sovereign States which compose this confederacy.—

The President's instructions to you are, that an earnest attempt be first made to induce the French Government to open a negotiation upon the principles advocated by the late administration of this Government, but that in the event of a failure to produce that result, you shall agree to one embracing all matters in difference between the two countries. It is not believed that other than formal conferences will be necessary to satisfy yourself on the first point. Should you, however, find it otherwise, you will pursue such course as may seem to you best adapted to effect the object in view.

It will be your special duty to see that the change of the present positions of the two Governments be effected in such a form as not to commit this upon the claims set up by France under the Louisiana treaty. The apprehension appears to have been that, by consenting to negotiate upon the subject, we would admit the construction set up by France, and thus bring the question down to one as to the extent of indemnity only.—

If the great extent of our claims, the sacrifices which France has already been called upon to make in consequence of the acts of the former Government, the state of her finances, the improbability of obtaining supplies from the legislature, and such like grounds, are urged against the allowance, by her, of our claims, you are authorized to say that the President will so far respect considerations of that character, as to receive, in full satisfaction of all our claims, and as a definitive adjustment of all matters in difference between the two countries, a gross sum, to be distributed amongst the claimants by the United States; provided that sum shall bear a reasonable proportion to the actual extent of our claims.

April 20, 1830. On the subject of the abatement which may be required by the French Government from the amount of indemnities claimed on our part, you are already apprised of the President's views in relation to it; that he is anxious to obtain satisfaction for all just claims whatever of citizens of the United States upon the French Government, without regard to the classes to which they belong; that he is disposed to yield none, but upon unavoidable necessity, and to avert a greater injury, by foregoing the opportunity to procure a satisfactory adjustment of the best and largest portion of them. It is expected, therefore, that your strenuous exertions will be used to induce the French Government to allow all that can be sustained upon fair and equitable principles. The President is well aware, however, that there are considerations appertaining to the subject, which may lead that Government to insist upon a reduction in reference to particular classes of the claims, or, perhaps, the entire abandonment of such by this. In that case, it may be found best to yield something of what, under other circumstances, might be insisted upon, on our part, for the sake of obtaining all that is practicable. Should the necessity of doing this, or to forego the opportunity of effecting an arrangement otherwise desirable, become apparent and imperious, the President, in that case, would agree to the adoption of such a course.—

The President concurs in the opinion which you have expressed, that, if reductions are insisted upon, the claim for interest, and those originating in transactions antecedent to the treaties of 1800 and 1803, are the classes in which concessions should be made. You are, therefore, hereby invested with his authority to abandon

these, or a portion of them, under such renunciations as may be required by the French Government, if it should appear that this made a *sine qua non* to the successful prosecution of the residue; but this is not to be proposed except in the last resort.

The mode proposed by you for selecting the arbitrator, is deemed greatly preferable to that which was provided by the treaty of 1794 between the United States and Great Britain; and the President hopes that you will find no difficulty in securing its adoption. If the French Government should refuse to enter into a positive stipulation to pay for any proportion or classes of the property condemned, you are authorized (the other claims being satisfactorily provided for,) to adopt the basis upon which Mr Gallatin's propositions to the Duke de Richelieu appear to have been founded, by leaving that question to be determined by the joint commission.

You are, moreover, authorized to submit the restricted question upon the eighth article of the Louisiana convention to the mixed commission, if it should become indispensably necessary to a successful prosecution of your negotiation upon the subject of claims; but, in that case, you will take especial care that the submission be made in such a form as to exclude the general question of the future and permanent construction of that article, according to the tenor of your general instructions upon this head.

Nov. 8, 1830. If pretensions under the 8th article of the Louisiana convention, should prove to be the case, the President sees no objection to your concluding a convention with the French Government upon the basis of the propositions contained in your note to Prince Polignac [May 20, 1830] stipulating a reciprocal and reasonable reduction of the duties upon French wines on their importation into the United States, taking proper care, however, that the stipulation for this reduction of duties does not conflict with our engagements to other nations, by which we are bound to impose no higher duties upon articles the produce of the soil or industry of those nations, than upon similar articles of other nations, when imported into the United States, and a corresponding reduction of the duties upon our cottons, when imported into France; but he would not be willing to consent to a longer period than — years for the continuance of such a convention, though there would be no objection to its containing a provision for the further continuance of it, indefinitely, unless one or other of the parties should give notice to the other, as in the case of the convention with Prussia of the 1st of May, 1828, of its intention to arrest the operation of it.—

The President is not now more disposed, than he ever was, to yield any thing of the just rights of his fellow-citizens; but he cannot so far disregard the force of the considerations to which reference has just been made, as to decline receiving in the most indulgent and conciliatory spirit, any reasonable offer which may be made by the French Government in full satisfaction of our claims; provided it shall bear a fair proportion to the amount which, upon a view of the whole subject, shall be deemed sufficient to cover the claims which this Government ought, under the circumstances, to insist upon. Your own acquaintance with the subject, as derived from the instructions and documents furnished you by this department and from other sources of local information, must be your guide in considering the

amount which would be deemed acceptable by your Government, whom you will ever find disposed to give a liberal support to any act of yours founded in the spirit of your instructions, and dictated by existing circumstances, which shall have for its object the real interests of the claimants, and the final adjustment of differences, in the settlement of which, each day's delay adds fresh injury to the interests involved in them. I am, sir, with great respect, &c. M. VAN BUREN.

William C. Rives, Esq., &c. &c. &c.

129. *Mr Rives to Mr Van Buren. Extract.*

Paris, Feb. 25, 1830. My last despatch will have informed you of what had passed between the minister and myself on the subject [of the vessels and cargoes condemned under the Berlin and Milan decrees.] He [*Polignac*] had said that, while his majesty's Government could not consent to pay, generally, for condemnations under these decrees, on the naked ground of their being contrary to the law of nations, in consequence of the heavy and indefinite demands of other powers, to which the recognition of such a *principle* would subject them, that they would be *willing* to go, as far as they could, in the payment of cases which might be distinguished by a *peculiarity* of circumstances. As there were special reasons in perhaps all the cases of condemnation under the Berlin and Milan decrees, for setting aside those condemnations, independent of the illegality of the decrees themselves, (as, for example, that the condemnations were in contravention of the convention of 1800, were not made by regular prize tribunals, or in the forms prescribed by law, &c., &c., &c.) it immediately occurred to me that an article might be framed which would, at the same time, consult the views as expressed by the minister, and provide for the just claims of our citizens.

I prepared an article arranging the condemnations which his Majesty's Government should positively stipulate to pay, into separate classes according to special grounds of reversal applying to each, with a supplemental clause, that they should pay for all other cases of condemnation which, *from any consideration*, a mixed commission should decide that his Majesty's Government was justly bound to make compensation for. In drawing this article, I was guided chiefly by the statement contained in Mr Gallatin's letter to the Duke de Richelieu of the 9th November, 1816; and the classification of cases I made, corresponded, as you will perceive, in numerical order as well as in principle, with the specifications of that statement.

It seemed to me that such an article, while it was accommodated to the views expressed by the minister of France, had a decided advantage for us over that which had been proposed by Mr Gallatin to the Duke de Richelieu. According to Mr Gallatin's projet, the Government of France was not bound positively to pay for any of the condemnations; but the whole question of their obligation to do so, was made dependent upon the decision of a mixed commission. According to that which I had thought of suggesting, the Government of France would positively bind itself to pay for five distinct classes of condemnations, comprehending, in all probability, nearly the whole that had taken place, referring the question of its obligation to pay in any cases which might not be included in those classes, to the determination of a mixed commission.

There is one other difference between the two projets, which, as you may deem it important, I beg leave to invite your attention to. In the second section of Mr Gallatin's first article, the decision of the mixed commission is to be governed by

a consideration of what condemnations were "contrary to public law and justice, &c." In consequence of the jealousy and repugnance manifested by the Minister of Foreign Affairs to any arrangement which would recognize the principle of paying for Bonaparte's violations of the law of nations, I thought it best to avoid any express reference to *public law*, and, in lieu thereof, to leave it to the commission, in general terms to decide what condemnations, not enumerated, his Majesty's Government "is justly bound to make compensation for." The two forms of expression, perhaps, are not intrinsically of different import, and it would seem that such was Mr Gallatin's understanding of them, as, in the second section of his second article, in defining the functions of the mixed commission, he uses the phrase "justly bound."—

The claims originating prior to the conventions of 1800 and 1803, and forming the subject-matter of the two or three first classes of claims mentioned in my instructions, I considered as virtually embraced by these articles, particularly by the clause of the 1st article relating to supplies and debts, and the clause of the second article relating to condemnations in contravention of the convention of 1800. The latter clause was framed mainly with reference to condemnations under the Berlin and Milan decrees prior to 31st July, 1809, which, besides their illegality on general principles, were in violation of the 12th, 13th and 14th articles of the convention of 1800, which secured to each party, in time of war, the benefit of an unmolested commerce with the territories, or in the productions of the enemies of the other; but, it was recommended to me by the further consideration of making France responsible, at the same time, for the more ancient claims arising from condemnations contrary to the tenor of the 4th article.

As the classes of claims here referred to had not been insisted on in any of the discussions which had taken place between the two governments for the last twenty-five years, and seemed, indeed, to have been mutually considered as either settled or abandoned, I thought it would have a very bad effect to bring them forward distinctly and avowedly. Indeed I suppose that the motive for comprehending them in my instructions was not so much a distinct recognition of them, as to swell the aggregate amount of our claims in the event of a proposition for a compromise *en bloc*, and thereby to enable us the better to obtain a sum adequate to cover all the claims of a more unquestionable character.—

As considerable *abatements* will, probably, be insisted on from the demands of the projet, it would also be important for me to be informed, at the same time, how far claims which might seem either rigorous or doubtful, (such as interest, and the claims prior to 1800 and 1803,) may be eventually abandoned, if it should become necessary as the *sine qua non* of an arrangement.

Same to same.

Paris, September 8, 1830. I yesterday had a conversation with ——— at the Foreign Office, on his own invitation, which furnished a striking illustration of the views and feelings of the *new* Government. He told me that he had, several times, conversed with Count Molé on the subject of our claims; that the minister was anxious to cultivate the most friendly relations with the United States, and that his dispositions, personally, on the subject of our claims, were favorable; that the *principle of responsibility* he was ready to *admit*; but that, popular as our nation was in France, our claims were not so; that a minister would incur great

responsibility in a settlement of them; that Count Molé had thought of the organization of another commission, consisting of members of the two Chambers, to consider and examine the subject, and had suggested it in a late council of ministers; but, from a difference of opinion even on the principle of our claims, as I understood him, the suggestion was not adopted; that, under these circumstances, the prospect of an adjustment would depend on a material reduction of the extent of our demands, and that, in the amplitude we had given them, their admission would be impossible.

I stated to ——— that I regretted exceedingly to hear what he had just communicated to me; that I had hoped that the *new* Government of France would have been animated with more liberal views; that the admission of the principle of responsibility* (a principle which the late events in France rendered it impossible to deny,) while its application was disputed, would be of very little avail; that, in private transactions, an individual who should admit that he was indebted to another, but disputed every item of the account, would oppose as great obstacles to the demands of justice, as one who roundly denied that he was indebted at all; that such a course on the part of France, with regard to our claims, while it seemed to me alike unsuitable to the character of the question, of the parties, and of the high interests involved, would only serve to increase the feelings of irritation and dissatisfaction for which too much occasion had been already afforded; that we asked nothing but justice in the redress of undeniable wrongs; that, as the wrongs had been great, the measures of redress ought to bear some fair proportion to the magnitude of the injury; that, with regard to the amount of our claims, if France sought a reduction of them, it was incumbent upon her to say frankly what she

* *Note.* On June 25, 1830, speaking of the principle of responsibility, to *Prince Polignac*, *Mr. Rives* said, "Your excellency, in referring again to the treaties of 1814 and 1815, says, that you had not cited them as obligatory upon the United States, but only as a precedent of respectable authority. Taken with the qualifications which a difference of circumstances necessarily imposes, the government of the United States is far from declining the application of this precedent. On the contrary, the *principle* of it gives conclusive support to our reclamations. In the note which I had lately the honor to address to your excellency, I stated the difference of circumstances which rendered the particular rules of those treaties inapplicable to the United States, but the fundamental principle of responsibility for the acts of the preceding government of France, which is recognized and established by those treaties, applies with all its force in favor of the reclamations of the United States. On the same principle that the present government of France is responsible for the contracts of the preceding government in the case of belligerents, it is liable for the trespasses of that government on the property of neutrals. The history, as well as the particular dispositions of the treaties of Paris, prove that violent and forcible wrongs were not, in general, comprehended in those treaties among the acts of the preceding government, for which the restored government was made responsible, because injuries of that description, in the case of belligerents, were considered as calamities of war, and the natural consequence of the position in which the contracting powers stood to each other. In that view, they would not have constituted a subject of reclamation against the preceding government itself, and, of course, not against the restored government. The property of neutrals, however, being lawfully exempt from all violence, any forcible invasion of that property by the preceding government, constituted, at the least, as strong a subject of reclamation against the present government of France, the general principle of responsibility being once established, as any contracts of the preceding government with the subjects of belligerents."

was willing to pay, and if her offer approximated to justice, it would certainly be considered, with every proper feeling, by the Government of the United States; that considerations, however, of much higher importance than money, connected with the general relations of the two countries, were involved in the adjustment of this question; and in enforcement of this view, I took occasion to mention, (upon the faith of indirect information of *the successful issue of Mr. McLane's negotiation,*) that Great Britain, setting a much higher value on the friendship of the United States than France seems to do, had, in a case involving no demand upon her justice, and even at the expense of the interests of a large portion of her own subjects, just settled the only question we had with her, in a spirit of liberal conciliation, and with the enlightened policy of drawing closer her friendly relations with us.

I have the honor to be, &c.

W. C. RIVES.

To the Hon. M. Van Buren, Secretary of State.

130. *Mr Rives to Mr Van Buren. Extract.*

Proposition of the French Government, for the Adjustment of the Claims.

Paris, June 14, 1831. Sir: On the first instant, supposing that sufficient time had elapsed for the deliberations of the council, I called again on the Minister of Foreign Affairs for the purpose of receiving the final decision of the French Government.

The minister told me that he had brought the subject again before the council, and that it had been most maturely and deliberately considered; that he and Monsieur Perrier, the President of the council, had, with much difficulty, prevailed on them to add one more million to the offer which had been already made me, but that was unequivocally their *ultimatum*, and he was directed to announce it to me, in the most solemn form, as such; that it was the opinion of the most enlightened and influential men, members of both Chambers, that the offer of twenty-four millions, heretofore made, was greatly too much; that — — —, — — —, and other leading members of the one Chamber or the other, whom he mentioned, had already expressed that opinion to him, and emphatically warned him of the serious difficulties to which this affair would expose ministers before the Chambers; that, under these circumstances, nothing but high *political* considerations, and the strong desire they felt to establish the most friendly relations with the United States, had induced them to go as far as they had done, but that they had now advanced to a limit which nothing whatever could induce them to pass.

I replied that, after the numerous and detailed discussions which had already taken place, it was useless to discuss the adequacy of the proposition he had just made: my only object was to know the *final* determination of the French Government, that I might come to a determination alike final on my own part, and thus avoid the necessity of further unpleasant, as well as unprofitable discussions.

He repeated, that what he had just stated to me was the final and unchangeable determination of the French Government, and he wished me to consider it as then announced to me in the most solemn manner.

I then observed to Count Sebastiani, that nothing had yet been said of *interest* upon the sum proposed to be paid by the French Government, but that it was an indispensable element in judging of the proposition he had made, and must be understood, before I could come to a decision upon that proposition.

He replied that, under the circumstances of the case, interest was by no means a matter of course; that their offer had always been accompanied with the express condition of payment in six years; that they were not bound, therefore, by the addition of interest, to make it equivalent to a cash payment; but, nevertheless, the council, in their anxious desire to determine the affair, had authorised him, if I insisted upon it, to agree to pay an interest of four per cent., which was the highest they had ever paid to a foreign government in a similar transaction.

With these explanations the interview terminated.

Finding no where a more authoritative estimate of the just amount of the claims of our citizens than that contained in Mr. Gallatin's despatch of the 14th January, 1822, to Mr. Adams, and in which he expresses the opinion that all the claims of every description, justly due, do not exceed *five millions of dollars*, two millions of which, he adds, "there can be no expectation ever will be obtained," I thought no time ought to be lost in securing the benefit of the proposition now made by the French Government. I therefore prepared the projet of a convention, (of which a copy accompanies this despatch,) and, on the 3d of June, presented it to the ministers.

After reading it over, he signified his approbation of the principal dispositions of it, with a special exception, however, of the fifth article, which contains a renunciation of the French claims, and particularly of the claim founded on the eighth article of the Louisiana treaty. He said these were claims of French subjects against the United States of indispensable justice, which the American Government could not certainly refuse to satisfy in the moment of obtaining justice for its own citizens; and that, in regard to their claim under the eighth article of the treaty of cession of Louisiana, it was too well founded, and of too much importance to be abandoned, without a fair and just equivalent, especially after the liberal proposition they had made for the payment of the claims of our citizens.

I observed, that no allusion having been made in the course of our negotiation to the claims of French subjects, I had taken it for granted that there were none which were supposed to merit the patronage of the French Government; and that, with respect to the Louisiana question, I had flattered myself that the present Government of France would no longer insist on a pretension which had been heretofore used chiefly as an expedient for evading the justice due to our citizens.

He replied, that the negotiation in which we were engaged, as expressly stated in the report approved by the king in October last, had three distinct objects: first, the liquidation of the claims of American citizens against France; secondly, the liquidation of the claims of French subjects against the United States; and, thirdly, the adjustment of the great question respecting the execution of the Louisiana treaty: that the natural march of discussion was to treat these objects successively; that he had not thought it necessary or proper to say any thing of the claims of French subjects till those of American citizens had been disposed of: but, having now come to an understanding respecting the latter, it remained to adjust the former, as well as the reclamation relative to the eighth article of the Louisiana treaty, which, he repeated, was too clearly founded in the language of that instrument, as well as in the convictions of the French Government and nation, ever to be gratuitously abandoned.

The minister, then, sent for Baron Deffandis to give information respecting

the claims of French subjects against the United States, as well as the manner in which it was proposed to settle the Louisiana question. The Baron mentioned the claim of the heirs of Beaumarchais; the French vessels destroyed at Savannah and Norfolk, in 1811; the four which were captured by Captain Stockton on the coast of Africa, in 1822; and divers other claims, some of which I then heard of for the first time. In regard to the manner of settling the question concerning the eighth article of the Louisiana treaty, after alluding to the understanding which had taken place in the time of Monsieur Polignac's ministry for an abandonment of this pretension, in consideration of a temporary reduction of the duties on French wines in the United States, he said that the commission, unanimously concurring in the opinion that the claim asserted by the French Government was clearly supported by the language of the treaty, and the nature of the transaction itself, thought that the proposed reduction of duties on French wines did not offer an equivalent for its abandonment; but that the United States ought also to grant a corresponding reduction of the duties on French brandies.

After some further conversation, which it is not important to detail, the minister remarked that he was, as yet, very imperfectly informed as to the points which remained to be adjusted, and that it would be necessary, therefore, to reserve the discussion of them for another occasion.

Finding that the claim of the heirs of Beaumarchais, which alone amounted to more than three millions of francs, was to be earnestly insisted on, I thought it important to possess the mind of the ministers as promptly as possible with those circumstances belonging to the history of the times, which had produced a belief in the United States that the supplies which formed the subject of the claim, were, in fact, derived from the gratuitous assistance of the French monarch.

On the 4th instant, therefore, I again called on him, and entered into an historical exposition of this claim, and of the circumstances connected with it, founded on the documents which had been published in the United States. Count Sebastiani remarked that he knew very little of the intrinsic *merits* of this claim, but it seemed to him that the Government of the United States stood *committed* by the letter of Mr. Gallatin to the Duke de Richelieu, of the 2d December, 1816, connected with the duke's answer, to pay it, and it was a matter of much surprise in France that it had not been heretofore paid. I replied by calling his attention to the language of the correspondence between Mr. Gallatin and the Duke de Richelieu, as not justifying the inference he had drawn from it.

The minister then said he had not yet had time to make himself thoroughly acquainted with this claim, or the others which would be presented; that he would be necessarily occupied with other matters of great urgency before the departure of the king, who was to set out on the 6th instant on an excursion into the eastern departments; but that, if I would call again on Wednesday the 8th instant, he hoped then to be able to enter with me on this part of our negotiation. — In this state of things, I thought it important that the proposition which had been made by the French Government for the adjustment of our claims should be put on record, and, with that view, as well as to accelerate the progress of the negotiation, I yesterday addressed to the minister a note accompanied by the project of a convention, copies of both of which are herewith enclosed.

I have the honor to be, &c.

W. C. RIVES.

To the Hon. Martin Van Buren, Secretary of State.

Mr Rives to Mr Livingston.

Arrangements agreed upon.

Paris, June 29, 1831. On the 21st instant, the day proposed by the minister for our interview, I again called at the office of Foreign Affairs. The minister said he had read and considered my observations with attention; that he did not deem it necessary to enter into a separate discussion of the several claims with me; that the principal one, and greatly exceeding all the others in amount, was that of the heirs of Beaumarchais; that the council before whom he had brought the subject, considered the claim just, and had determined to insist upon it; he had reason to believe, however, that the parties interested, in order now to secure their claim in a certain and definitive manner, might be induced to accept a sum less than the whole amount they had claimed; that the other claims among which there were some of unquestionable justice, might, in like manner, be compromised, and that the whole subject of private French claims might thus be terminated by a transaction *en bloc*, and, in all probability, for two or three millions of francs.—

On the following day (the 22d,) I called again on the minister of foreign Affairs, as he had proposed, and found Baron Delfandis with him. The discussion was resumed on the French claims, and particularly that of the heirs of Beaumarchais. After a great deal of conversation, which it is not deemed necessary to detail, the subject was arranged by the minister's agreeing to accept a gross sum of fifteen hundred thousand francs in satisfaction of all the claims.

The claim of the heirs of Beaumarchais alone amounted to 3,760,874 francs. From the peculiar nature of this claim, and the connection of the French Government with it, the honor of the United States seemed now imperiously to demand its adjustment, whether intrinsically well founded or not. The million * which, with its interest, had been charged to the account of Beaumarchais, was not alleged to have been paid to him by the United States. It was claimed as a *gift* put into his hands by the *French King* for the purpose of purchasing the supplies with which he had furnished the United States. But the French Government had repeatedly declared that it was not applied to the purchase of those supplies, but to an object of *secret* political service, of which Beaumarchais had rendered a satisfactory account to his own Government.—

To get rid of this claim, amounting, alone, to more than three and a half millions of francs, and of others, (among which are some of clear justice,) amounting to one million more, for a gross sum of one and a half million of francs, was an arrangement so obviously advantageous for the United States, that I did not hesitate to adopt it.

The question respecting the eighth article of the treaty of cession of Louisiana then remained to be adjusted. The minister declared that the national sentiment, as well as the convictions and determination of the French Government, rendered a simultaneous arrangement of this question the indispensable condition of the

* Note. M. de Richelieu replied to Mr Gallatin on the 16th Dec. 1826, in a manner entirely favorable to the heirs of Beaumarchais: for he declared, formally, that "the million given on the 10th of June, 1776, had immediately reached its intended destination, and that, (according to the custom of that time,) a simple approval by the King was the only definite account (*pièce comptable*) of the use which had been made of it; (this approval was dated December 7, 1776, but a few months after the delivery of the money;) and that, moreover, from a new examination of the facts, it appeared that the million in question had not been employed by M. Beaumarchais in purchasing the articles which had been sent to the United States."

acknowledgment of our reclamations; but that he was willing, with some little addition, to arrange it on the same basis which had been agreed upon between Monsieur *Polignac* and myself.

Monsieur David, the Secretary General of the Bureau of Commerce, who had been consulted by the Minister of Foreign Affairs on this subject, was present, and exhibited a projet he had prepared for a considerable reduction of duties on French wines and brandies. I explained to the minister the considerations connected with the interests of our industry, which rendered it impossible for me to accede to any reduction of the duties on French brandies. After a protracted conversation, with the details of which it is unnecessary to trouble you, it was finally agreed that the United States should stipulate to reduce, for a term of *ten* years, the duties on French wines to the following rates, by the gallon, to wit: on wines in bottles from 30 to 22 cents, on white wines, in casks, from 15 to 10 cents, and on red wines, in casks, from 10 to 6 cents; in consideration of which France should entirely abandon her pretension under the eighth article of the treaty of cession of Louisiana, and, moreover, agree to abolish the distinction now made in the French tariff between the *long staple* and the *short staple* cottons of the United States, the effect of which will be a reduction of the duty on the former from 40 to 20 francs the 100 kilogrames.

The motives and advantages of this arrangement on the part of the United States, are so fully developed in my despatch of the 20th May, 1830, that I need not here enter into the subject again. That the increased consumption of French wines in the United States, under the reduced duties, will produce a material increase of the revenue arising from this source, I cannot doubt; while the salutary influence of the measure on the public health and morals in the free introduction of a cheap and unexciting drink, no less recommends it to the approbation of an enlightened patriotism, of which it is known, indeed, to have been long a favorite and cherished object.

I will remark, only, that the proposition made to Monsieur *Polignac* in May, 1830, had chiefly in view a reduction of the duty on wines in *cask*. But the Minister of Foreign Affairs desired a simultaneous reduction of the duties on other wines, with a view of conciliating the winegrowing interest of Champagne and Bourgoyne, as well as of the south of France. Instead, therefore, of a reduction of 50 per cent, in the duties on red wines in cask only, (which the calculations made in my despatch of the 20th May, 1830, would require, in order to establish an equality, in that respect, with Madeira wines,) it was agreed to grant an average reduction of about $33\frac{1}{3}$ per cent. in the duties on all kinds of French wines.

Satisfactory explanations were given by the minister in regard to the difference in the rates of duties established, at present, in France on the cottons of Turkey and India, and those of other countries; and I was convinced, indeed, notwithstanding this difference of duty, that the cottons of the United States had nothing to fear from a competition with the inferior qualities and reduced supplies of the cottons of other countries.

I had every reason, therefore, to be content with the equalization of the duties on the *long staple* and *short staple* cottons of the United States, operating a reduction of one-half of the duties now imposed on the former; especially as the real

motive of the stipulated reduction of duties on French wines in the United States was not to obtain commercial advantages, but to get rid of a claim of perpetual privileges, founded on the language of a treaty which had heretofore proved an invincible obstacle to the just reclamations of our citizens, and might be most onerous and embarrassing for the future.—

The arrangements which had been agreed upon in this interview, left nothing to be done, but to settle, definitively, the form of the treaty in which they were to be incorporated.—

In a few days more, I have every reason to hope that the matter will be definitively consummated by the signature of the treaty.

I have the honor to be, with great respect, &c.
The Hon. Edward Livingston, *Secretary of State.*

W. C. RIVES.

131. *Mr Rives to Mr Livingston.*

Result of the Negotiation.

Paris, July 8, 1831. Sir: I have the honor to transmit, herewith, *the treaty* which has been concluded with the Government of France. It was reduced to its definitive form on the 30th ultimo, but the necessity of submitting it to the King who had just returned from his tour in the eastern departments, and the subsequent absence of the Minister of Foreign Affairs, who accompanied the King in another excursion to Melun and Fontainebleau, on the 2d and 3d instant, prevented its signature till the 4th.

In communicating the result of this long and arduous negotiation, I do not suppose it necessary to enter into analysis of the articles of the treaty, which either sufficiently explain themselves, or are already explained by the details given in my previous despatches. It will be perceived that the whole sum which the French Government is to pay on account of the reclamations of citizens of the United States for unlawful seizures, captures, &c., is twenty-eight and a-half millions of francs. In regard to the adequacy of this sum to pay the just claims of our citizens, I have already had the honor to refer to the despatch of Mr Gallatin of the 14th of January, 1822; and beg leave here to cite the passage of it which relates to this subject :

“Although I have enumerated all the cases within my knowledge, where actual condemnation had not taken place, I must add that it is possible that some vessels captured, and probable that some burnt at sea whilst the Berlin and Milan decrees were in force, have not yet been definitely condemned. But there *can* be no expectation that indemnity will *ever* be obtained either for those, or in any of the cases where there has been such condemnation. From all the documents which I have yet seen, I do not believe that the total amount of this last mentioned class, after deducting the cases where the destination of the vessels was concealed, enemy's property covered or which might generally afford plausible grounds for condemnation, can exceed *two millions of dollars* in value. The Danish prizes, and the vessels and cargoes seized at Naples, are not included in that estimate. The amount of seizures and vessels burnt at sea, where no condemnation has taken place may be estimated at about *three millions of dollars*. This last estimate cannot be far from the truth, since we know the amount of the two largest claims, the St. Sebastian and the Antwerp sequestrations. The answer which this government may give to my last note, will show whether we have any thing to expect from its justice in any case whatever; for, if the Antwerp claim is rejected, there can be no expectation that they will voluntarily allow any other.”

If the opinion here expressed be correct, and certainly none enjoys, or is en-

titled to more respect, the sum stipulated to be paid by the French government will be amply sufficient to satisfy all the just claims of our citizens, of every description, comprehended in the scope of the negotiation.

The schedules founded on statements of the claimants, which have from time to time been presented to Congress, carry the amount of the claims much higher; but, for obvious reasons, they are not a safe guide either in regard to the validity or the amount of the claims. During the past winter, I put these schedules into the hands of a most intelligent countryman, whose practical acquaintance with such subjects, and a personal knowledge of many of the transactions themselves, derived from a residence in Europe at the time, gave particular value to his opinion. He communicated to me the result of his examination in a letter, a copy of which, as showing the large deductions to be made from the schedules, and as containing other observations which may be found useful in the ultimate investigation of the claims, I herewith transmit.

The result which has been gained in the interest of the claimants, has not been achieved without the greatest difficulty. The correspondence of Mr Crawford, of Mr Gallatin, and of Mr Brown, with the Department of State (the unfavorable parts of which have, for obvious reasons, not heretofore been given to the public) shows that they regarded this whole subject as almost entirely hopeless. The difficulties, instead of being diminished, have been increased by the recent revolution here; the causes of which have been hinted at in several of my previous despatches, and particularly in that of the 8th August, 1830. The more popular genius of the new government in creating a greater tenderness for the public purse, and stronger sympathies with the interests of the tax-payers, has itself been a serious obstacle; to which have been added the pressure of extreme financial embarrassments, and the absorbing pre-occupation of European politics.

An arrangement which, amid so many difficulties, has secured for claims of our citizens (prosecuted in vain for the last twenty years, and a large portion, if not the whole, of which has been considered as *desperate*) a sum sufficient, in all probability, to pay every cent justly due, and nearly treble the amount pronounced to be due by the commission charged with their examination here which has, at the same time, extinguished claims of French subjects against the United States, to the amount of near five millions of francs, by a stipulation to pay a million and a-half; and has finally gotten rid of a most embarrassing claim (founded on the language of a treaty) of perpetual privileges in the ports of one of the States of the Union, by a temporary measure, intrinsically advantageous to ourselves, and in the definitive settlement of these unpleasant questions, has laid a lasting foundation of harmony and friendship between two countries having the most important common interests, political and commercial: an arrangement marked by these features cannot, I trust, fail to be satisfactory, and to justify the responsibility which, under the discretionary powers the President has been pleased to confide to me, I have not hesitated to assume both in the progress and termination of this complex negotiation.

I have the honor to be, &c.

W. C. RIVES.

To the Hon. Edward Livingston, Secretary of State.

132. *Classification of the French Claims, as furnished by the Department of State, in the Instructions to Mr Rives, 20th February, 1829.*

<i>First Class.</i> Claims prior to 30th Sept. 1800, recognized by the fourth and fifth articles of the treaty of that date, but either pretermitted by the treaty of the 30th of April, 1803, or, through various causes, not included in the settlement made at Paris by the board of claims, and remaining in force by virtue of the treaty of 1800, and the 10th article of that of 1803, amounting per schedule herewith, to	\$1,488,833 99
<i>Second Class.</i> Claims accruing between the 30th September, 1800, and the 30th April, 1803, for debts contracted within that period, and provided for by the 12th article of the treaty of 1803, amounting, as per schedule, to	134,786 06
<i>Third Class.</i> Claims accruing between the 30th of September, 1800, and the 30th April 1803, from all causes other than debts, and captures made between the date and ratification of the treaty of 1800; those debts and captures being provided for by the 4th and 5th articles of that treaty, and included in the first class, amounting, as per schedule herewith, to	75,704 53
<i>Fourth Class.</i> Claims between the 30th April, 1803, and the year 1805, and arising from all causes whatsoever, amounting, as per schedule, to	1,065,081 98
<i>Fifth Class.</i> 1st. Claims subsequent to 1805, chiefly growing out of the decrees and orders of the French government, on which no final condemnation was passed, amounting as per schedule, to	-\$6,256,647 69
2d. Claims of the same nature, but finally condemned by the Council of prises, Council of state, or by imperial decisions and orders, amounting as per schedule herewith, to	3,026,231 84
	9,282,879 53
Exclusive of interest—aggregate	\$12,047,286 09

133. *Claims on Naples. Mr Livingston to Mr Nelson.*

Extract. Instructions, dated Washington, October 27, 1831.

It appears that, on the 31st March, 1809, a modification of the Berlin and Milan decrees was adopted by the Government of Naples, which admitted certain enumerated articles, imported in neutral vessels; but finding the Americans reluctant to place themselves in their power under the general promise of protection implied by this decree, a special invitation was made to the merchants of the United States, by a decree dated on the 30th of June, 1809, and officially communicated to their consul, by which the Americans, by name, were promised the free disposal of their cargoes, if accompanied by the usual papers, provided they had not been in a port of Great Britain, or had not been visited by her cruisers.

As soon as the tenor of Murat's decree could be known, several enterprising merchants of the United States, putting faith in the promises it held out to them, fitted out vessels with rich cargoes for Naples. The first two or three that arrived were fairly dealt by; their cargoes were sold, their returns were taken in, and they were suffered to depart without molestation; but when, tempted by their show of good faith, an additional number had been drawn within their grasp, and the prey became worth taking, the whole were, by order of king Murat, seized, confiscated, and sold, without a colorable pretext. The protests of the masters were disregarded; the complaints of the consul treated, for many months, with contemptuous silence; and when, at last, an answer was given, the robbery was said to be justified by an act of Congress, passed on the first March preceding, which forbade commercial intercourse between the United States and both France and England; an act not relating to Naples in the remotest degree, and which, having passed four months before the decree inviting the American vessels into the ports of Naples, could

never have justified the seizure of them after they came there. The number of vessels and cargoes thus faithlessly seized and sold was forty-nine.—

Your mission has been resolved upon, for the purpose of making a strong and decisive attempt to procure a just indemnity to our injured citizens, and, at the same time, assert the honor of our country, which suffers every day that we delay to enforce the demand. The time and circumstances are considered favorable for prosecuting it. The time—immediately after France, whose example was followed, and whose authority was relied upon, has yielded to the justice of our claims. The circumstances—the commencement of a new reign, when the mind of a young prince may be supposed more susceptible of the feelings of justice than that of his predecessor, soured by the misfortunes inflicted upon him and his family by the former occupant of his throne; and not least, the known determination of the President to suffer no wrong. You will, therefore, at a convenient time, after the ceremonies of your presentation, enter on the business of your mission, in a manner to convince the Government of the Two Sicilies that we are in earnest in exacting the full indemnity so long due to our citizens.—

Convey in strong but respectful language, the idea that it was a firm resolve of the President, on his entering on the duties of his office, to assert in the most efficacious manner, the rights and claims of the mercantile class of his fellow citizens upon foreign Governments. That his avowed principle is to make no demand not founded in justice; but, as far as his functions will permit, to submit to no wrong; that he has carefully examined all the circumstances of our demand upon the Neapolitan Government; that the principle on which it is founded appears to him incontestible, and that, therefore, your mission has been resolved on to bring it to a close, to the end that, if it should unfortunately happen, (an event that he cannot bring himself to anticipate,) either that a satisfactory answer should be denied or delayed up to the period necessary for a communication to Congress, he may submit to that body a statement of the demand he has made, and afterwards execute whatever measures they may deem it due to the protection of their fellow citizens, and the honor of their country, to pursue.

134. *Mr Pinkney to the Marquess di Circello. Extract.*

“Naples, Aug. 16, 1816. The general principle, that a civil society may contract obligations through its actual government, whatever that may be, and that it is not absolved from them by reason, simply, of a change of government or of rulers, is universally received as incontrovertible. It is admitted, not merely by writers on public law as a speculative truth, but by states and statesmen as a practical rule, and accordingly history is full of examples to prove, that the undisturbed possessor of sovereign power in any society, whether a rightful possessor or not, with reference to other claimants of that power, may not only be the lawful object of allegiance, but, by many of its acts in quality of sovereign *de facto*, may bind the society and those, who come after him, as rulers, although their title be adverse to, or even better than his own. The Marquess di Circello does not need to be informed, that the earlier annals of England, in particular, abound in instruction upon this head.

“With regard to just and beneficial contracts, entered into by such a sovereign with the merchants of foreign nations or (which is the same thing) with regard to the detention and confiscation of their property for public uses, and by his

authority in direct violation of a pledge of safety, upon the faith of which, that property arrived within the reach of confiscation, this continuing responsibility stands upon the plainest foundation of natural equity.

“It will not be pretended, that a merchant is called upon to investigate, as he prosecutes his traffic, the title of every sovereign, with whose ports and under the guaranty of whose plighted word he trades. He is rarely competent. There are few in any station, who are competent to an investigation, so full of delicacy, so perplexed with facts and principles of a peculiar character, far removed from the common concerns of life. His predicament would be, to the last decree, calamitous, if, in an honest search after commercial profit, he might not take governments as he finds them, and consequently rely at all times upon the visible, exclusive, acknowledged possession of supreme authority.—

“The undersigned will now, for the sake of perspicuity and precision, recall to the recollection of his Excellency the Marquess di Circello the situation of the government of Murat at the epoch of the confiscations in question. Whatever might be the origin or foundation of that government, it had for some time been *established*. It had obtained such obedience as, in such times, was customary, and had manifested itself, not only by active internal exertions of legislative and executive powers, but by important external transactions with old and indisputable regular governments. It had been (as long afterwards it continued to be) recognised by the greatest potentates as one of the European family of states, and had interchanged with them ambassadors and other public ministers and consuls. And Great Britain by an order in council of the 26th April 1809, which modified the system of constructive blockade, promulgated by the orders of November 1807, had excepted the Neapolitan territories with other portions of Italy from the operation of that system, that neutrals might no longer be prevented from trading with them.”—

“The wrong, which the government of Murat inflicted upon American citizens, wanted nothing, that might give to it atrocity or effect as a robbery, introduced by treachery; but, however pernicious or execrable, it was still reparable. It left in the sufferers and their nation a right, which was not likely to be forgotten or abandoned, of seeking and obtaining ample redress, not from *Murat* simply, (who individually was lost in the sovereign) but from the government of the country, whose power he abused. By what course of argument can it be proved, that the incontestable right, from which that government could never have escaped, has been destroyed by the reaccession of his Sicilian Majesty, after a long interval, to the sovereignty of the same territories?—

“The territories, under the sway of Murat must be supposed to have returned to his Sicilian Majesty less exhausted, more embellished and more prosperous, than if the property of American citizens had not, in the mean time, been sacrificed to cupidity and cunning. It must further be remembered, that a part of that property was notoriously devoted to the public service. Some of the vessels, seized by orders of Murat were, on account of their excellent construction, converted into vessels of war, and as such commissioned by the Government; and the undersigned is informed, that they are now in the possession of the officers of his Sicilian Majesty, and used and claimed as belonging to him.”

“Murat did not,” replied the Mar. di Circello, “deem himself authorized to

decide in any way, (as to sequestration) and submitted the report (of Agar, Secretary of the treasury,) to his brother in law Napoleon, who decreed in margin, that the vessels and cargoes should be confiscated, because the embargo laid in the ports of the United States induced him to believe, that the produce must be British property, and its introduction into the continent a breach, therefore, of the too famous Berlin and Milan decrees.

—“Murat then, let it be repeated, was but the passive instrument of the will of Bonaparte in the confiscation of the American ships, and if this could give birth to responsibility, such responsibility should no longer be imputed to the country, over which he reigned, and still less to the government, which has there resumed its lawful authority.

“The other and not less important consequence is, that the treasury, which was the fund of the State, never enjoyed the proceeds of the confiscations, and that, instead of being employed to alleviate the burdens of the people, or applied to the improvement or embellishment of the country, as is supposed, in the note of the 16th of August. those proceeds only served to feed the caprices and the oriental pomp of the family of Murat and his adherents.”

135. *Mr Nelson to the Prince of Cassaro. Extract.*

Naples, January 31, 1832.

The principle of the liability of the nation to effectuate the engagements made, to redress the injuries inflicted, and to profit by all the just advantages acquired by its Government *de facto*, is too broadly asserted by all writers upon national law, and too recently and generally exemplified in the practice of the Governments of Europe, to be now called in question. Independently of all authority, it is verified and sustained by the most obvious considerations of natural equity.

The citizens of one nation, in their intercourse with those of another, cannot be required to look beyond the acknowledged possession of the political and civil power. A contrary doctrine, introduced into the international code, would be pregnant with the most fearful consequences, fatal alike to private interests, and the internal tranquillity of nations; provocative of a continual intervention between independent powers, essentially subversive of the right of self-government. To a principle so radically vicious, the Government of the United States can never yield its sanction. It will never consent that it should be made applicable to its own interests, nor will it assume it in regard to other nations.

136. *Prince of Cassaro to Mr Nelson.*

Translation. Extract.

Naples, May 30, 1832. From an attentive examination of Mr. Nelson's note, it appears that he undertakes to establish this principle—that citizens of one country, in their intercourse with another, cannot be expected to look beyond the acknowledged possession of the political and civil power. From this principle it follows, of course, that he who is in acknowledged possession of the sovereignty of a country, should be regarded, by foreigners, as the legitimate sovereign thereof.

Hence, it is pretended, that Murat having pledged his faith to the Americans, his act is to be obligatory on the nation over which he then ruled, and on its legitimate sovereigns after their restoration to the throne.

Adhering to this principle, the undersigned considers as capable of demon-

stration, that no indemnification is due to the American merchants for the losses they sustained, inasmuch as they were wrong in confiding in Murat, whom they ought not to have viewed as the absolute, entire, and supreme possessor of this kingdom. In proof of this, it will be proper to recapitulate the circumstances under which Murat reigned, and from which it will be seen that the continental portion of the Neapolitan dominions was at that time only a great feud of the French empire:

On the 15th of July, 1808, Joachim Murat was invested by his brother-in-law, Napoleon, with the title of King of Naples; which was made hereditary in his lineal male descendants; in failure of whom, the crown reverted to him who had bestowed it, or to his legitimate, natural, or adoptive successors. To the crown of Naples was added the dignity of high admiral of France.

The supreme sovereignty of Naples, consequently, resided in Napoleon; by virtue of which, he directed the political relations of this kingdom with other countries, just as he did those of the various States over which he had unjustly and forcibly placed other individuals of his own family. It was upon the strength of this supremacy that he issued the atrocious Berlin decree, extending to the kingdoms of Spain, Naples, Etruria, and Holland; and, shortly after, that monument of his arbitrary disposition, the Milan decree.

These are points in history, of the truth of which no one doubts; nor did the American Merchants doubt that the abovementioned decrees applied to them likewise, for they did not immediately despatch cargoes for Naples. Mr. Nelson asserts that they demanded security. No evidence of this, however, has been found among our archives, notwithstanding the most diligent search. From whom could they receive such security? From Napoleon or from Murat? Certainly from Napoleon, as Murat was merely the executor of those execrable decrees in Naples. If Napoleon's command was paramount throughout the whole extent of the French empire in such a case as this, certainly the possession of that part of the sovereignty which regulated said political system resided in Napoleon, and not in Murat.

Hence, according to Mr. Nelson's own principle, the American merchants erred in trusting to Murat; who, as was clearly shown in the note to Mr. Piakney, did not dare to disobey the inexorable Napoleon, and therefore confiscated the American vessels, notwithstanding his word had been pledged for their safety.—

137. *Mr Nelson to the Prince of Cassaro. Extract.*

Naples, June 29, 1832.

It remains to inquire, whether the responsibility of the Government of Murat, for the wrongs shown to have been committed by it, has devolved upon that of his present Majesty. That it has, the undersigned is persuaded may be rendered apparent by a recurrence to principles incontestably established by the authority of publicists of acknowledged reputation, and by the confirmatory practice of most of the powers of modern Europe.

The following are the principles maintained by the government of the U. States:

That a nation is a moral person, capable of contracting obligations and of committing wrongs; that, as a moral person, it is bound to perform the one and to redress the other; that this obligation is independent of, and remains unaffected by, changes in its actual government; that, whoever comes to the possession of its sovereign power, takes it subject to this obligation; that neither a revolution in a State

nor a change in its rulers, or the form of its government, can dispense it from the duty of its performance; but that, as long as the nation exists, the obligation exists; and that, even in the case of conquest, its validity remains unimpaired.

It further maintains, that the acts of the rulers of a State, whilst engaged in the exercise of its sovereign powers, are the acts of the State itself. That to constitute them such, it is sufficient that they proceed from its *actual government*, without reference to the source or tenure of its authority. That this is especially true in regard to the action of a government upon the interest of strangers; that foreign nations, in their dealings with States, may and must regard the undisturbed possessors of the sovereign power as its rightful possessors; and that this duty results from their obligation to forbear from all interference with the internal policy of such States.

It believes that these principles are consonant to reason; that they are recommended by considerations of public convenience; and that, apart from the protection afforded by their application, there can exist no security in the intercourse of nations. It maintains that the establishment of a different doctrine would draw after it the most pernicious consequences; that under its sanction, every revolution in a government would avail to cancel the obligations of the nation represented by it; that, by inviting, on the part of foreign traders, an inquisitorial scrutiny into the origin and sufficiency of the titles of its rulers, the independence of every State would be ceaselessly invaded, and its internal tranquility constantly disturbed; that, in a word, it would provoke a continual intervention between independent powers, and thus essentially subvert all the rights of self-government.

Applying these principles to the case of the American claimants, it insists that, from 1809 to 1815, Murat was the actual possessor of the sovereign power of the Kingdom of Naples; that its Government was in his hands; that, as its ruler, he represented its political power; that his public political acts were the acts of the Neapolitan nation; that the American confiscations were his acts, because the decrees which enforced them were issued in his name and by his authority, and were executed by the power of his Government; that they were, therefore, imputable to the Neapolitan nation; that, being founded in manifest and admitted wrong, the Neapolitan nation was morally bound to repair the losses occasioned by them; and that the nation which contracted this obligation, notwithstanding the change in its rulers, still exists, and, through his Majesty's Government, which represents its power, and is now bound to redeem it.

The undersigned has said that the principles contended for by the American Government are sustained by "the authority of publicists of acknowledged reputation." In support of this position, he refers his excellency to Vattel's *Laws of Nations*, book 1, ch. 4, sect. 40, and book 2, ch. 18, sect. 324, as explanatory of the representative relations subsisting between a sovereign and his subjects, of the obligations growing out of these relations, and of the duty of their fulfilment by the nation to which they attach. A satisfactory discussion and exposition of the whole doctrine applicable to this controversy, his excellency will find in Baron Puffendorf's invaluable *Treatise on the Rights of Nature and of Nations*. The author, in lib. 8, ch. 12, sect. 2, uses the following decisive language:

"De ce que nous verons de dire il paroît comment ou doit resondre une question proposée par Aristôte, savoir, si, lors'qu'un peuple passe, du gouvernement absolu d'un monarque, ou d'oligarchie, au gouvernement populaire; l'état ainsi devenu libre doit garder, les traités, les contracts, et les autres actes du roi, ou

des grands, sous la domination des quels il étoit au paravant? Ceux qui soutenaient la négative, se fondoient, sur ce que l'état ne prouvait être tenu que de son propre fait, n'étoit pas obligé d'accomplir les engagements d'un monarque absolu, ou d'un petit nombre de grands dont l'autorité avoit été fondée uniquement sur la force, et non pas rapportée à l'utilité publique; de sorte qu'alors ce n'étoit pas proprement un état; mais c'est la sans contredit une raison bien frivole. Car une tête malade ne laisse pas pour cela d'être une tête; ainsi ce que les chefs de l'état ont fait, quelque vicieux et de règles qu'ils fussent, est censé fait par tout le corps de l'état."

The principles asserted in the foregoing extract, his excellency will not fail to perceive are substantially, if not precisely, those upon which the American demands are supported. The writer maintains and illustrates his view by a very strong example, that the acts of the government of a State are the acts of the State itself. That no revolution or change in the government can discharge the State from the obligations which the acts of its rulers have imposed on it; that the responsibility of the State *reposes upon the fact of the actual existence of the government, without being in anywise affected by its organization or character.* That, whether rightful or otherwise, its obligation is not varied. That, in the significant language of the author, "although the head may be sick, it does not, therefore, cease to be a head;" and that a government founded *on mere force* is as competent to charge the nation ruled by it as if it were legitimate.

Nor can the force of this reasoning, or the weight of the high authority by which it is sustained, be weakened in its application to the present controversy, by an attempt to show that the Government of Murat was founded in usurpation. Without stopping to enquire into the nature of Murat's title to the throne of Naples, which the undersigned may well admit to have been defective relatively to Ferdinand, its legitimate sovereign, he insists that, as its actual, undisturbed possessor, the Government of the United States, and its citizens under its protection, were justified in dealing with him as with the rightful sovereign; and that all the obligations growing out of their intercourse with his kingdom were as binding upon the Neapolitan nation as if it had been under the rule of Ferdinand himself. The nation was the same, by whomsoever it may have been governed; *and it was with the nation, and not its governor in his personal capacity, that the American merchants maintained their intercourse.*

So fixed and cardinal, indeed, is this principle in the view of writers upon public law, that even in the case of admitted usurpation, as understood by them, it is unequivocally asserted. Vattel, in his Treatise upon the Laws of Nations, distinctly affirms it. In book 4, ch. 5, devoted to the discussion of the rights of States to receive and entertain public ministers, which he determines to be an incident of sovereign power, he considers the question, "*whether foreign nations may receive the ambassadors and other ministers of a usurper, and send their ministers to him?*" Which he thus decides: "In this particular, foreign powers take for their rule the circumstance of actual possession, if the interest of their affairs so require: *and, indeed, there cannot be a more certain rule, or one that is more agreeable to the law of nations and the independence of States. As foreigners have no right to interfere in the domestic concerns of a nation, they are not obliged to canvass and scrutinize her conduct in the management of them, in order to determine how far it is just or unjust. They may, if they think proper, suppose the right to be annexed to the possession.*" Even admitting, then, Murat to have been a usurper, the American

merchants were justified in treating with him as a legitimate sovereign. They had not the right "to canvass or scrutinize" his title to the throne which he occupied, but were bound to suppose "the right annexed to the possession" of the powers of Government. It would be superfluous to add, that the power thus to treat, necessarily implies the validity of the obligations which the intercourse imposed; and, as these attached to the nation, the nation was and still remains responsible for their fulfilment.

And his excellency will find this view of the subject supported by Puffendorff in the third section of the chapter already referred to, in which he asserts and illustrates the doctrine contended for by the American Government; maintaining that it is reasonable that the acts and engagements of a usurper, after he has been driven from his usurped dominion, should be regarded as obligatory upon the nation represented by him; and distinguishing between the power of a restored sovereign over those acts of a usurper which affect the internal interests of the kingdom, *which he admits may be abolished*, and those that relate to the interests of strangers, *which he decides to be beyond the control of the new government.*

138. *Mr Nelson to the Prince of Cassaro. Extract.*

Naples, September 12, 1832.

Neither the dignity of the Government of the United States, nor the duty it owes to its citizens, will justify or sanction submission to further delay: I am therefore specially instructed to demand an explicit answer to the following inquiry:

Will the Government of his Sicilian Majesty render satisfaction for the seizures and confiscations made by the Neapolitan Government during the reign of Murat, of the property of American citizens, and take measures for the prompt and full payment of the same?

I am further instructed to apprise his Majesty's Government that the frigate United States, now in the port of Naples, has been despatched to receive the answer to this specific demand; that she will wait for it twenty days; and if, at the expiration of that time, a satisfactory reply shall not have been given, and ask proper provision made for the payment of the claims preferred, I am directed to for my passports to return to the United States, when it will devolve on the President to take such measures for the vindication of the rights of his fellow citizens as his constitutional duties shall direct.

139. *Mr Nelson to the Prince of Cassaro.*

Naples, October 1, 1832. Sir: The propositions, preferred in a spirit of liberal compromise, having been rejected by his Majesty, I feel it to be my duty to declare no longer obligatory upon the Government of the United States, which remitted to its original rights, will hold the Sicilian Government responsible for the whole value of the vessels and cargoes seized by Murat, for the expense of the masters and agents in claiming the property, for the charges to which the American Government has been put in supporting the American seamen belonging to the confiscated ships and their conveyance home, and for any expense which may be hereafter incurred in the further prosecution of the claims of its citizens.

140. *Prince of Cassaro to Mr Nelson.*

Naples, 2d October, 1832. The undersigned has received Mr Nelson's note the —, and has the honor of sending him herewith a passport, agreeably to his

request, and of informing him that proper arrangements have been made for the free embarkation of his suite and baggage.

The undersigned, however, declares to Mr Nelson, by order of the King, that, although he may have thought proper to quit the country, yet the Sicilian Government does not consider the negotiation terminated; as his Majesty, actuated by that spirit of conciliation which forms so distinguished a trait in his character, has conceived certain propositions, which, being *similar to those agreed upon in the late convention between France and the United States, seem likely to accommodate the existing differences.*

His Sicilian Majesty urged by a sincere desire to maintain and strengthen his amicable relations with the United States, and to dispel the existing difficulties, is determined to bring the affair in question to a conclusion, and, as the departure of Mr Nelson will render that impossible here, his Majesty will send immediately to the United States a Diplomatic Agent, furnished with proper instructions, and with the powers necessary for making a treaty, and thus ending the negotiations here begun.

Having thus communicated to Mr Nelson the determination of his Majesty, the undersigned renews to that gentleman the assurances of his esteem.

THE PRINCE OF CASSARO.

141. *Mr Nelson to Mr Livingston.*

Issue of the Negotiation.

Naples, October 8th, 1832. Sir: I have the honor to inform you that, after I had received my passports, which my last despatch apprized you I had demanded, and on the very day assigned for my audience of leave, I received a note from the Prince of Cassaro, in which he stated that urgent duties would prevent the King from seeing me according to appointment, and suggested the expediency of another interview on the following day. To this proposal I, of course, acceded, and have been constantly occupied since in the business of my negotiation, which I have great pleasure in informing you has been brought to an issue, highly favorable, as I think, to the interests of the claimants. The treaty is now preparing, and will be signed in a day or two. In the meantime, I have obtained from the Secretary for Foreign Affairs a written statement of the terms of the settlement.

By this agreement, this Government stipulates the payment of two millions one hundred and fifteen thousand ducats, in instalments, with interest. This sum, I believe, will very nearly cover the principal of all the just and well-founded claims.

The negotiation has been a very arduous one; but if the result should prove satisfactory to the Government of the United States, I shall find in its approbation a full remuneration for the toils and vexations to which I have been exposed during its progress. I have the honor to be, &c.

JOHN NELSON.

142. *Our Relations with the Netherlands.*

Condensed from Lyman's Diplomacy.

The treaty, made in 1782, having no limitation, continued in force till the creation of the kingdom of the Netherlands and the consolidation of the Dutch and Belgic provinces in 1814 and '15. Separate from the great and lucrative trade carried on with the Dutch East and West Indies, and colonies on the American con-

continent, this country has had from 1794 (with the exception of '99, when Holland was invaded by an English and Russian army, and during nearly the whole year her ports declared to be in vigorous blockade) a vast direct commerce till 1808 and 9. But the diplomatic relations, subject to uncommon vicissitudes, have been interrupted the greater part of the time. Holland fell the same year with Austrian Flanders, and the country on the left bank of the Rhine.

From that period we trace the original Dutch confederacy through the successive changes of a national assembly, a Batavian republic, an aristocratic legislature, an elective monarchy, an hereditary monarchy, a department in 1810 of the imperial government, and lastly, to its union in 1814 and '15, with Belgium. The United States have not followed step by step these revolutions in its government; but a friendly intercourse has always been maintained, and till the abdication of Louis in July, 1810, many openings were found for trade, notwithstanding the severity, with which the continental system was attempted to be enforced. The special application of that system to Holland, however, in 1809, and the following years, subsequently gave rise to the same controversy, on the subject of illegal seizures, the government has had with Spain and Naples. American property to a great amount was unjustly seized, and, ultimately, confiscated. * That, which was not liable to the operation of the Berlin and Milan decrees, was sequestered under the 10th article of the treaty of Paris of March 1810. It is in these words:

"Every description of merchandise that has arrived in the ports of Holland in American vessels since the 1st January, 1809, or which shall hereafter so arrive, shall be put under sequestration, and shall belong to France, to be disposed of according to circumstances and the political relations of that country with the United States."

This treaty, the Dutch admiral Verhuel was obliged to sign with M. de Champagny. It was the preliminary step to the abdication of Louis, an event, indeed, that followed a few months after. Louis in his own hand made observations on the different provisions of this treaty. They have been preserved, and have since been published in a manner, that leaves no doubt of their authenticity. In regard to the 10th article just quoted he remarks: "I expect, from the justice of the Emperor, that he will express his intentions in a different way, as it respects this property. I think it should be treated as property, under similar circumstances, has been in Spain and Naples, and that the same date should be assigned for the application of the article." This arrangement would have placed the property in depôt subject to future examination and decision. The history of the claims of this country on the Dutch government does not differ in principle from that on Spain or Naples.

The negotiations with the Kingdom of the Netherlands, since the peace of 1815, present little variety or novelty. They relate solely to claims for spoliations, and to the concluding of a commercial convention, containing the doctrine of reciprocal importation and charges and duties.

In 1818 an attempt was made by the United States to renew the ancient treaty of 1782 with modifications, adapted to the actual condition of both countries. This failed in consequence of the law of March 3d, 1815, requiring the repeal of

* These confiscations, known as the "Antwerp" and the "Holland" claims, are now in a course of liquidation: the memorials, in both cases, have been received by the commissioners under the French treaty of July 4, 1831.

all discriminating duties on the part of foreign nations, as it regarded the United States, while it provided only a partial repeal on the United States, as it regarded foreign countries. The statute did not rescind the charge on tonnage, and the import only on merchandise, the produce or manufacture of the nation, to which the vessel, in which imported, belonged. On the other hand, the Netherlands law repealed the countervailing duty both on tonnage and merchandise whatever might be its origin. This inequality of municipal regulations proved fatal to a renewal of the treaty of 1782, one of the most ancient in the collection, and the only one, concluded with the Dutch Government. The course of trade of the Netherlands, also, presented great difficulties. Few articles, either of the produce or manufacture of that kingdom, were objects of exportation, that branch of trade consisting principally of foreign productions.

In the supposition, that the law of March, 1815, was abrogated in regard to the Netherlands, it would have been necessary to have gone through an entire revision of all the modern commercial treaties. The proposition of the U. S. demanding to be admitted into the Dutch colonies on the footing of the most favored nation, constituted another serious obstacle. This was rejected from the consideration, that the United States possessed no colonies, and could offer no terms of reciprocity in that particular; a refusal, partaking somewhat of an invidious air, for, as most other nations held colonies, whether small or large, the prohibition appeared to apply exclusively to this country.

That power, at the close of the great political reforms, regenerations, remodelings and recastings of 1814, 1815, owned but the small and decayed islands of St. Eustatia and Curacoa, (and two others so obscure as hardly to merit being mentioned) whose whole produce was confined to a few articles and in limited quantities. On the other hand, a country, affording the greatest variety of native staple products, able at this moment to supply all Europe with flour, tobacco, lumber and cotton wool, with a most extensive coast, and whose markets must every day become more valuable from the rapid increase of wealth and population, was denied admittance to these islands, because she possessed no colonies, whose trade could be offered in return. The application of the principle in this particular case, certainly, appears altogether abstract. There are, also, occasions, when a trade with the United States is of indispensable necessity to save the islands from starvation, caused by drought or hurricanes. No foreign country, it is true, is under an obligation, (except, indeed, urged by those great principles of humanity and civilization, which fall little short, of necessity, of the most rigid kind) to rescue a population in that unfortunate condition from suffering or death. All are at liberty to forego the temporary advantages, that this lamentable state of things offers. But there seems to be some equity, or reason in requiring, that a trade, occasionally of the greatest importance to the islands themselves, should be accompanied with a benefit and security of a less precarious and even capricious character to the people, that can alone conduct it. In a practical view it is the more remarkable, that the Netherlands should hold to a colonial monopoly with so much earnestness, as the commerce of the kingdom is now confined chiefly to a traffic in foreign products and manufactures.

The commercial treaty of 1822, was not renewed by the American minister, but arrangements equally beneficial, though of a less permanent character, was

effected by means of corresponding municipal regulations. In October, 1816, the Netherlands adopted the terms offered by the countervailing duty law of March 1815, to which we have already referred, and in all imposts and tonnage charges, placed the trade of this country on a footing of equality and reciprocity. But as the act of March 1815 repealed only the impost on merchandise under certain circumstances, the United States, in order to establish on their part a more perfect equality and reciprocity, in April 1818, removed, also, the tonnage charged in regard to Netherlands ships. Matters remained in this state till the Autumn of 1822, when the Netherlands government, either perceiving that the carrying trade from their ports was falling into foreign hands, or not deriving equal advantages with the United States from the system of reciprocity, in consequence of the circumstance, that most of their exportations consisted of articles, not the produce or manufacture of their own country, in favour of which only our countervailing duties were rescinded, published a new tariff of duties, which, among other things, provided, that "one tenth of the duties, paid upon the importation or exportation of all goods, shall be returned, when the same are imported, or exported in Dutch vessels." It is unnecessary to say, that this provision was a direct bounty on Dutch navigation, and as direct an encroachment on the system of equality and reciprocity, though the minister, M. de Nagell was not disposed to affix to it that interpretation.

By the laws of 12th June 1821 and 10th August last, the duties remain without distinction the same for foreign ships and for national. This restitution of a tenth for merchandise, imported by the ships of the Netherlands, has done no more (as the 11th article of the law of the 12th July 1821, expresses it) than to give encouragement and proper aid to the works of the nation. This restitution, therefore, supplies the place of the premiums of encouragement, which the government might have granted to every ship, built in the Netherlands, a disposition, which certainly never could have given room to the American government to complain of an inequality of treatment in respect to their ships. If the government of the United States had found it good to grant a similar premium to the American ships, surely the King could have found in that no cause of remonstrance. His Majesty would have only seen in it a bounty, intended to encourage or favour the manufactures of the nation.

The act of January 7, 1824, in anticipation of the restoration of countervailing duties, on the part of foreign nations, with whom the principle of reciprocity was not secured by treaty, gave full authority to the President to withdraw by proclamation from the navigation of countries, adopting that course, the privileges and advantages, conferred by the acts of March 1815 and April 1818. But as the Netherlands government maintained, in its correspondence on the subject, that the ten per cent. bounty of August 1822 was solely intended to encourage national ship building, and, by no means, to affect the tonnage or impost charges on exportations or importations, and, as the act of January 1824, did not, in precise terms, invest the executive with power to determine what should be considered a revival of countervailing duties on the part of a foreign nation to the disadvantage of the United States, a doubt arose, whether the inequality, created by the Netherlands tariff, could be counteracted by the retaliatory provisions of that law; the matter was, therefore, referred to the consideration of Congress, and a law was passed, which met the difficulty.

143. *Intercourse with Portugal.*

Extract from the General Instructions of the State Department to Gen. Dearborn, in 1822.

Independently of the changes in the diplomatic relations of the two countries, which have resulted from the removal of the king from Rio de Janeiro to Lisbon, other accidental circumstances have concurred to cause some irregularity and disorder in them. In the spring of the year 1819, Mr. John Graham was appointed minister plenipotentiary of the United States to the Court of Brazil, to succeed Mr Thomas Sumpter, junior, who had resided there in that capacity, almost from the time of the transfer of the Portuguese government thither. Mr Graham, within little more than a year from the time of his departure on that mission from the United States, was compelled to return home, and barely lived to reach this country.

About the same time the Chevalier Correa de Serra, who had for several years resided as the minister plenipotentiary of Portugal in this country, was recalled and left the United States. A resolution of the senate of the United States in March, 1821, recommended to the President the appointment of a minister to the Court of Brazil, but the return of the king of Portugal to Europe, very shortly afterwards, rendered a compliance with this resolution unavailing.

The departure of that prince from Rio de Janeiro had been preceded by various movements of a revolutionary character, as well there, as in Portugal. He had, immediately before embarking, appointed, as his minister to the United States, the person, who since his arrival in Europe, has acted as his secretary of state for foreign affairs. And it appears that since the revolution there, which has invested the Cortes with a principal portion of the sovereign authority, the policy of maintaining ministers of the plenipotentiary rank from that country has been suspended. A chargé d'affaires has been appointed to repair to Washington, but has not yet arrived. In the mean time, that office has been discharged by the Chevalier Amado Grehon, who had been secretary of legation to Mr Correa, and recently a Mr Decosta has been here, and announced himself, as attached to the legation, and to exercise the powers of consul general.

After the invasion by the Brazilian Portuguese government of Montevideo and the eastern shore of the river La Plata, a revolutionary government under the name of the Oriental Republic of La Plata, and subject to the authority of a military chief, named Artigas, for several years maintained a defensive war, at once, against them and against the rival revolutionary republic, styled the United Provinces of La Plata. The latter, the seat of government of which was at Buenos Ayres, never came to a state of declared war with Portugal, but the Republic of Artigas did, and that commander issued commissions for privateers and letters of marque against the Portuguese, under which the commerce of that nation was, for three or four years, much annoyed. Of the captures made by these privateers, several were brought into the ports of the United States, and frequent complaints were received from Mr Correa, that some of the privateers were fitted out within the U. States, and partly manned by their citizens. To this complaint every attention, compatible with the rights of the citizens of the United States and with the laws of nations, was paid by this government. The laws, for securing the faithful performance of the duties of neutrality, were revived and enforced. Decrees of restitution were pronounced by the judicial tribunals, in all cases of Portuguese captured vessels,

brought within the jurisdiction of the United States. And all the measures, within the competency of the Executive, were taken by that department of the government for repressing the fitting out of privateers from our ports, and the enlisting of our citizens in them.

These measures, however, do not appear to have been altogether satisfactory to the Portuguese government, doubtless, because they were not sufficiently understood by them. Shortly before the Chevalier Correa de Serra left the United States, he addressed to this department several notes, containing lists of Portuguese vessels captured by privateers, alleged to have been fitted out in the United States, or partly officered and manned by citizens of this country. To these lists were added claims of indemnity, to a large amount, upon the United States, for the value of these vessels and cargoes, and with them was connected a demand for the appointment of a joint commission, to be appointed by the two governments, to determine and assess the amount of damages to be paid by the United States for these captures. As there was no precedent for the appointment of such a commission under such circumstances, and as not a single case of capture had been alleged for which the United States were justly responsible, this proposal was, of course, denied, and nothing further was heard upon the subject, until the 1st of April last, when a note was received from the present chargé d'affaires of Portugal, leading to a correspondence, copies of which are now furnished you.—With regard to the proposal, contained in the letter from Mr Almada of the 1st of April, of a treaty of commerce, in which special advantages shall be granted to the United States, even if it were offered by itself and separately from the inadmissible condition, connected with it, we should not consider it as desirable, or compatible with the true policy of either nation. We have never sought exclusive advantages in our treaties with any foreign nation. The policy of the United States, on the contrary, has invariably been to form its commercial institutions and engagements on the broadest and most liberal principles of reciprocity. We are neither solicitous nor unwilling to treat with Portugal upon subjects of commerce; but, if we do treat, it must be upon those principles, and in conformity with them. The convention of 3d July 1815, with Great Britain, so far as it goes, exhibits the system, upon which we are desirous of settling our commercial arrangements with other nations, and the only one upon which we should be inclined to treat with Portugal.

Lisbon, December, 13, 1822. In addition to all the other circumstances, says Gen. Dearborn, which I have mentioned, as excuses on the part of this government for procrastination, that which I consider the most important, is the fear of offending Great Britain, especially since receiving the assurance, that that government would guaranty the integrity of Portugal. This government, knowing that no commercial convention will be agreed to on the part of the United States, but such as will place our merchants on an equal footing with those of the most favored nation and Great Britain being not only the most favored, but the most peculiarly favored nation, by the treaty of 1810, which will so far expire in July, 1825, as will allow Portugal to make such alterations, as circumstances may require, or as she may deem expedient, and as any treaty or convention, that would be acceptable to the United States, must place us on the same footing with Great Britain, it is very obvious, that this government must, under existing circumstances, feel embarrassed

and, of course, be disposed to procrastinate the negotiation, which had commenced, informally, with a fair prospect of success.

In January 1823, the Count da Lapa, many years minister at St. Petersburg, was intrusted with the negotiation on the part of Portugal. Some forms of conventions were exchanged, but no solid progress appears to have been made.

"I have not heard, says Mr Dearborn, from the Count da Lapa since the 10th, ultimo, when he agreed to make out the form of the first head of the treaty, and call on me within the course of that week, but subsequently to our last meeting, a report was made to the Cortes on the subject of the present existing treaty with England, particularly in relation to the article, which stipulates, that certain English manufactures should be admitted into Portugal on paying a duty of fifteen per cent. on their cost. The report concluded by saying, that under existing circumstances, the Portuguese government have the right to suspend the operation of the article alluded to, until new negotiations should be had on the subject. The report was sanctioned by a vote of the Cortes. I presume that the discussion of this subject by a committee, and by the Cortes has occasioned a long delay on the part of the Count da Lapa. By the above mentioned report it appears, that negotiations have been going on between Portugal and Great Britain for sometime with a view, on the part of the former, of effecting such alterations in certain parts of the existing treaty, as would enable her to enter into such liberal and reciprocal commercial treaties with other nations, as would be acceptable. But it appears by the said report, that England, as might be expected, is very unwilling to relinquish any of the exclusive advantages, she now enjoys under the present treaty; and I am persuaded, that this government still finds itself embarrassed by certain stipulations in her treaty of 1810 with Great Britain, and that to that source the long delays, I have experienced, are to be principally attributed. I am satisfied, however, that the government is very earnestly engaged in endeavouring to effect such arrangements with England, as may be necessary for preparing the way for a liberal and reciprocal treaty with the United States."

In a letter from General Dearborn in May, 1821, we have an account of a proceeding by Don Miguel, at Lisbon, who then attracted, as he yet does, great attention in Europe:

"Very early in the morning of the 30th of April, the young prince, Don Miguel, had the troops assembled at different points: one body of them surrounded the residence of the King at the palace of Bemposta, while detachments were ordered to arrest the Minister for Foreign Affairs, and Minister of War and Marine, together with several members of the King's household, and many other respectable persons. Between 9 and 10 o'clock in the morning, it was proposed that the members of the diplomatic corps should meet at the house of the Nuncio, where it was concluded, that it would be proper to endeavor to ascertain, whether the King was a prisoner or not, and that, for that purpose, it would be expedient to proceed in a body towards the palace; the whole corps proceeded accordingly, and after passing the great square, where a large body of troops were formed under the immediate command of the Prince, we proceeded to within a short distance of the palace, where we were stopped by a military guard, and compelled to leave our carriages, and then allowed to proceed to and enter the palace in the presence of a large body of troops, regularly formed. We found the King quite overwhelmed

with fear and distress, accompanied by two of his chamberlains and Lord Beresford. The appearance of the diplomatic corps evidently gave him great relief; he was asked, whether he considered himself a prisoner: he said that he could not say, whether he was or not; but that he was surrounded by a body of troops, over whom he had no control. We were informed, that the Queen had arrived at the palace, and was in that part of it, which is exclusively occupied by the Prince. After conversing, and waiting in a state of suspense until about one o'clock, P. M., a letter of proclamation from the Prince was received by the King. In the course of two hours, the Prince arrived with a large body of cavalry: he dismounted, and soon after presented himself to the King, and with the aid of Lord Beresford, made a speech to his father, promising to obey his orders and be an obedient subject,—then, on his knee, kissed the King's hand and promised to remove the troops; and in almost an hour the troops were dismissed. The King then requested the diplomatic corps to stay, and partake of a dinner, which he had ordered for them. We stayed, and had an excellent dinner,—then had a short conference with the King, who requested us to call the next day at one o'clock, and we retired."

"Lisbon, May 14, 1824. The King, being apprehensive of another attempt for dethroning him, and his minister, the Marquess Palmella, having found it necessary for the King to take refuge on board a British man-of-war, concerted measures for going on board the Windsor Castle, a British seventy-four, and on Sunday the 9th instant, about 12 o'clock, with considerable address, he effected his object accompanied by two of the young princesses. The members of the diplomatic corps immediately hurried on board, excepting myself, confiding in my privilege as a minister, I remained with my family. As soon as it was known, that the King was on ship-board, terror and consternation pervaded the city, it being generally believed, that the Prince, with the adherents of the Queen, would pursue the most violent measures, and endeavor to cut their way to the throne; but fortunately the Prince, being either intimidated or deceived by the King, went soon after into a boat, and followed the King on board the ship, where he was confined, and in a few hours the city became tranquil.

"Yesterday, being the anniversary of the King's birth day, he received the diplomatic corps on board the ship, where a great number of the nobility and officers attended, and, also, many ladies. At six o'clock, P. M., the Prince sailed for France on board a Portuguese frigate, attended by a British frigate and a French brig of war. The King bestowed many marks of his favor on the members of the diplomatic corps, such as titles and orders, or both, on each member excepting myself; and knowing that I could not receive either, the Marquess Palmella civilly observed to me, that the King would have been happy to have noticed me, as he had done the other ministers, if I could have accepted the same token of respect.

In the Executive Message to Congress of the 4th of December, 1832, it is stated, that our "Demands against *Portugal* for illegal captures in the blockade of Terceira, have been allowed to the full amount of the accounts presented by the claimants, and payment was promised to be made in three instalments. The first of these has been paid—the second, although due, had not, at the date of our last advices, been received; owing, it was alledged, to embarrassments in the finances, consequent on the civil war in which the nation is engaged."

144. *The Greek Patriots. Mr Adams to Mr Rush. Extract.*

Department of State, Washington, August 18, 1823. If, upon the receipt of this letter, Mr. Luriottis should still be in London, it will be desirable that you should deliver it to him in person, accompanied with such remarks and explanations as may satisfy him and those whom he represents, that, in declining the proposal of giving active aid to the cause of Grecian emancipation, the Executive government of the United States has been governed, not by its inclination, or a sentiment of indifference to the cause, but, by its constitutional duties, clear and unequivocal.

The United States could give assistance to the Greeks, only by the application of some portion of their public force or of their public revenue in their favor, and it would constitute them in a state of war with the Ottoman Porte, and, perhaps, with all the Barbary powers. To make this disposal either of force or of treasure, you are aware, is, by our constitution, not within the competency of the Executive. It could be determined only by an act of Congress, which would assuredly not be adopted, should it even be recommended by the Executive.

The policy of the United States, with reference to foreign nations, has always been founded upon the moral principle of natural law—*Peace* with all mankind. From whatever cause war between other nations, whether foreign or domestic, has arisen, the unvarying law of the United States has been *peace* with both belligerents. From the first war of the French Revolution, to the recent invasion of Spain, there has been a succession of wars, national and civil, in almost every one, of which, *one* of the parties was contending for liberty, or independence. To the first revolutionary war, a strong impulse of feeling urged the people of the United States to take side with the party which, at its commencement, was *contending*, apparently, at least, for both. Had the policy of the United States not been essentially pacific, a stronger case to claim their interference could scarcely have been presented. They, nevertheless, declared themselves neutral, and the principle, then, deliberately settled, has been invariably adhered to ever since.

With regard to the recognition of sovereign states, and the establishment with them of a diplomatic intercourse, the experience of the last thirty years has served also to ascertain the limits proper for the application of principles, in which every nation must exercise some latitude of discretion. Precluded, by their neutral position, from interfering in the question of right, the United States have recognized the *fact* of foreign sovereignty, only when it was undisputed, or disputed without any rational prospect of success. In this manner, the successive changes of government in many of the European states, and the revolutionary governments of South America, have been acknowledged. The condition of the Greeks is not yet such as will admit of the recognition upon these principles.

Yet, as we cherish the most friendly feelings towards them, and are sincerely disposed to render them any service, which may be compatible with our neutrality, it will give us pleasure to learn, from time to time, the actual state of their cause, political and military. Should Mr. Luriottis be enabled and disposed to furnish this information, it may always be communicated through you, and will be received with satisfaction here. The public accounts from that quarter have been, of late, very scanty, and we shall be glad to obtain any authentic particulars which may come to your knowledge, from this, or through any other channel.

I am, with great respect, &c.,

JOHN QUINCY ADAMS.

145. *The Independent States of South America and Mexico. Extract.*

The Province of Buenos Ayres, (we learn from Lyman's Diplomacy) made the most rapid and solid progress towards emancipation. Their declaration of independence, was communicated to the government of the United States, by Don Manuel H. de Aguirre, who had arrived in this country, as a public agent from La Plata, and private one from Chili. He was not, however, furnished with a commission of minister nor with a power to negotiate; and there was no intimation in his letter of credence that he was even authorized to ask the acknowledgment of his government, though this matter was much pressed in his subsequent correspondence with the Department of State. We may mention in this connexion that *Don Martin Thompson*, an individual sent by the government of La Plata to this country, the succeeding year, had been dismissed by the Director Pueyrredon for having transcended his powers. Several letters, in the course of 1817, 1818, were addressed to the Secretary of State by *Don M. H. de Aguirre*, soliciting the acknowledgment of the Provinces of Buenos Ayres, formerly the vice-royalty of La Plata. No answers were given to those letters, though conferences were held with him. The President declined to enter into any arrangements with this individual, for he did not appear furnished with powers to negotiate, and the independence of the provinces was far from being established at that period; several portions of it being in possession of the Spaniards, Montevideo of the Portuguese, and the eastern shore, under the government of General Artigas, who though independent of the mother country, still maintained his independence of the Provinces of Buenos Ayres.

France, in forming an alliance with the United States and acknowledging their independence at an early period of the war, was led to this step by obvious and immediate political considerations and the expectation of future commercial benefits.—No eagerness was manifested in acknowledging the new states, though the application of Don Manuel Aguirre had scarcely been declined, when a renewed consideration of the same claims arose in the person of David C. de Forrest, who solicited the government to allow him to be admitted as a Consul General. This last application was made in May, 1818, but, as it was not ascertained, whether the province claimed an entire or partial independence, the President did not think it expedient to accede to the proposition. Spain, it seems, had still pretensions to the sovereignty, and it was the intention of Buenos Ayres to offer special commercial favors to her for the purpose of obtaining a release from them. Until it was determined, what would be the extent or character of these privileges, no nation could prudently lay itself under the obligation of encountering the commercial disabilities, necessarily flowing from such an arrangement.

“It had not been intended to suggest to Mr. de Forrest, that it was in any manner incompatible with the independence or sovereignty of a nation to grant commercial advantages to one foreign state, and to withhold them from another. If any such advantage is granted for an equivalent, other nations can have no right to claim its enjoyment, *even though entitled to be treated as the most favored nations*, unless by the reciprocal grant of the same equivalent. Neither had it been meant to say, that a nation forfeited its character of acknowledged sovereignty, even by granting, without equivalent, commercial advantages to one foreign power and withholding them from another. However absurd and unjust the policy of a nation, granting to one and refusing to another such gratuitous concessions might

be deemed, the questions, whether they affected its independence or not, would rest upon the nature of the concessions themselves. The idea meant to be conveyed was, that the reservation of an indefinite right to grant hereafter special favors to Spain for the remuneration of her claims of sovereignty, left it uncertain, whether the independence of Buenos Ayres would be complete or imperfect, and it was suggested with a view to give the opportunity to the supreme Director of explaining his intentions in this respect, and to intimate to him that while such an indefinite right was reserved an acknowledgment of independence must be considered as premature. This caution was thought the more necessary, inasmuch as it was known that, at the same time, while the supreme Director was insisting upon this reservation, a mediation between Spain and her colonies had been solicited by Spain, and agreed to by the five principal powers of Europe, the basis of which was understood to be a compromise between the Spanish claim to sovereignty and the colonial claim to independence."

We shall not detain the reader with an account of Mr de Forrest's application, particularly as he "declared himself unauthorized to agitate or discuss the question with regard to the recognition of Buenos Ayres as an independent nation." Some observations, however, may be proper with reference to circumstances alleged by him, as arguing that a consul general may be accredited without acknowledging the independence of the government from which he has his appointment. The consul of the United States, who has resided at Buenos Ayres, had no other credential than his commission. It implied no recognition by the United States of any particular government, and it was issued before the Buenos Ayres declaration of independence, and while all the acts of the authorities there were in the name of the King of Spain.

During the period, while this government declined to receive M. de Onis as the minister of Spain, no consul received an exequatur under a commission from the same authority. The Spanish consuls, who had been received before the contest for the government of Spain had arisen, were suffered to continue the exercise of their functions, for which no new recognition was necessary. A similar remark may be made with regard to the inequality alleged by Mr de Forrest to result from the admission of Spanish consuls officially to protest before our judicial tribunals, the rights of Spanish subjects generally, while he is not admitted to the same privileges with regard to those of the citizens of Buenos Ayres. The equality of rights, to which the two parties to a civil war are entitled in their relations with neutral powers, does not extend to the rights, enjoyed by one of them by virtue of treaty stipulations, contracted before the war, neither can it extend to rights, the enjoyment of which essentially depends upon the issue of the war. That Spain is a sovereign and independent power, is not contested by Buenos Ayres and is recognised by the United States, who are bound by treaty to receive her consuls. Mr de Forrest's credential letter, asks that he may be received by virtue of a stipulation, in supposed articles concluded by Mr Worthington, which he was not authorized to make, so that the reception of Mr de Forrest, upon the credential on which he founds his claim, would imply a recognition not only of the government of the supreme Director Puerreydon, but a compact as binding upon the United States, which is a mere nullity.

“ Consuls are, indeed, received by the government of the United States from acknowledged sovereign powers, with whom they have *no* treaty. But the exequatur for a *consul general* can obviously *not* be granted without *recognising* the authority from whom his appointment proceeds as sovereign. ‘The consul,’ says Vattel (book ii. chap. 2. § 34) ‘is not a public minister; but *as he is charged with a commission from his sovereign*, and received in that quality by him, where he resides, he should, to a certain extent, enjoy the protection of the law of nations.’

“ If from this state of things, the inhabitants of Buenos Ayres cannot enjoy the advantage of being officially represented before the courts of the United States by a consul, while the subjects of Spain are entitled to that privilege, it is an inequality, resulting from the nature of the contest, in which they are engaged, and not from any denial of their rights, as parties to a civil war. The recognition of them as such, and the consequent admission of their vessels into the ports of the United States operates with an inequality against the other party to that contest and in their favour.”

An application, made the same year from Venezuela, was speedily disposed of. We shall present a relation of this transaction in the words of the parties:

“ Most Excellent Sir,—Having been appointed by the government of the republic of Venezuela its representative near the United States of North America, I have the honor to inform you of my arrival in this city, for the purpose of discharging the trust committed to me: To effect this I have to request, that you will be pleased to inform me, at what time it will be convenient for you to afford me an opportunity of presenting my respects to you personally, and of communicating to you the object of my arrival in the federal city. I have, &c.

“ LINO DE CLEMENTE.

“ Washington, 11th December, 8th year of the Republic, A. D. 1818.

“ The Secretary of State of the U. S. North America.”

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Reply of the Secretary of State.

Sir, Your note of the 11th inst. has been laid before the President of the United States, by whose directions I have to inform you, that your name having been avowedly affixed to a paper, drawn up within the United States, purporting to be a commission to a foreign officer for undertaking and executing an expedition, in violation of the laws of the United States, and, also, to another paper avowing that act, and otherwise insulting to this government, which papers have been transmitted to Congress by the message of the President of the 25th of March last, I am not authorised to confer with you, and that no further communication will be received from you at this department.

“ I am, sir, with due consideration, &c.”

Without travelling through a historical detail of events, it will be sufficient to observe, that in Chili as in Buenos Ayres, the moving causes of the revolution were not the oppressions of the Spanish Monarchy. The people of Chili were not first awakened by persecutions and sufferings to a sense of their power and their rights, they had always been quiet for more than two centuries and a half. The united vigilance and cares of church and state had tamed every restless spirit and checked every wayward thought. The rulers and the pastors of the

people had diligently removed every hope of liberty, and passive obedience had become a habit. When the wars, arising out of the French revolution, involving and disturbing all the nations of Europe, overwhelmed the peninsula of Spain, drove the ancient dynasty from the throne, produced a struggle for the sceptre and broke loose at once those carious bonds of mere prejudice and superstition, which held the various parts of that great monarchy together, such was the state of the mother country, that it was manifest the colonies could no longer be governed as formerly. Each one consequently began calmly to think of self-government, not as a matter, to which he had been excited and persecuted, nor in a spirit of rebellion, but as a deplorable act of necessity in obedience to a melancholy fatality, which had rent asunder the several parts of a great empire, that had been, until then so quietly and happily united.

Not satisfied with the representations of the colonial agents, but convinced, that some progress towards independence had been made, and desirous to secure for this country their full and just share of any commercial advantages, that might be offered, the government determined in 1817, to despatch three special commissions to South America for the single purpose of obtaining some just and precise notions of the real situation of affairs there. Messrs. Theodoric Bland, Cæsar A. Rodney and George Graham were selected and sailed in a frigate in December 1817, for the River La Plata, with instructions to examine into the condition of Buenos Ayres and Chili. The latter business was undertaken by the first named individual. Nothing, we believe, contained in the reports, transmitted by these gentlemen, inspired regret at the delay of the government in the recognition of the new States.

Not discouraged by the unsatisfactory result of the first commission, the government appointed, in the summer of 1820, Messrs T. B. Prevost and John M. Forbes, agents for commerce and seamen for Chili and Buenos Ayres. The reader will observe, that these individuals were not furnished with powers or instructions in any sense called diplomatic, though directed to make representations (as will be seen in the paragraph we are about to recite from a letter from the department of state) on subjects of obvious interests to this country:

“The commercial intercourse between the United States and those countries, though not very considerable, is deserving of particular attention. Whatever accurate information you can obtain, relating to it, as well as to the commerce of those countries with other nations and to their internal trade, will be particularly acceptable. The condition of our seamen there will, also, deserve your notice. The performance of these duties will involve also the political relations between those countries and the United States. In the progress of their revolution Buenos Ayres and Chili have, to the extent of their powers, and, indeed, far beyond their natural means, combined maritime operations with those of their war by land. Having no ships or seamen of their own, they have countenanced and encouraged foreigners to enter their service, without always considering how far it might affect either the rights or the duties of the nations, to which those foreigners belonged. The privateers, which, with the commissions and under the flag of Buenos Ayres, have committed so many and such atrocious acts of piracy, were all either fitted out, manned and officered by foreigners at Buenos Ayres, or even in foreign countries, not ex-

cepting our own, to which blank commissions both for the ships and officers were transmitted. In the instructions to the late Commodore Perry, which his lamented decease prevented from being executed by him, and a copy of which is now furnished to you, certain articles of the Buenos Ayrean privateering ordinance were pointed out, particularly liable to the production of these abuses, and which, being contrary to the established usages among civilized nations, it was hoped, would have been revoked or made to disappear from their otherwise unexceptionable code. These instructions were renewed to Commodore Morris, but the time of his stay at Buenos Ayres was so short, and he was there at a moment of so great a change in the ruling power of the state, that although he communicated to then existing Director, the substance of the representations which Commodore Perry had been instructed to make, we know not that it was attended with any favourable result. You will consider the parts of Commodore Perry's instructions, which may be still applicable on your arrival in South America, as directed to yourself, and should you proceed to Chili, will execute them there, no communication upon the subject having yet been made there. Among the inconveniences, consequent upon this system of carrying on maritime warfare by means of foreigners, has been occasionally and to a considerable extent, the enticement of seamen, belonging to merchant vessels in the ports of Buenos Ayres and Chili from their engagements, to enlist them in privateers or other armed vessels of those countries. In attending to the numerous trials and convictions for piracy, which have recently afflicted our country, and cast an unusual gloom over our annals, you will remark that a great proportion of the guilty persons have been seamen thus engaged—foreigners at Buenos Ayres, or enlisted in our own ports in violation of our laws."

The exertions of Mr Forbes were so far successful, as to procure a decree, issued by the government of Buenos Ayres on the 6th of October 1821, forbidding the granting of privateer commissions.

We have, hitherto, not had occasion to mention Peru, where, before 1819, 20, no revolutionary movement took place. This backwardness is, we believe, fully explained in the following paragraph from a letter of an intelligent gentleman, well acquainted with the situation of the Spanish Provinces:

"The landed estates are in the hands of large proprietors and are cultivated by slaves. They are fearful that an attempt to change the form of government would be attended by a loss of their property, and from the great number of blacks and mulattoes in this viceroyalty, the contest would probably terminate in the same manner as the contest of St. Domingo."

So far from taking any part in the republican movements of Chili, Peru even in 1813, sent an army into that vice-royalty and re-established the royalist government. But in 1817, 18, the Peruvians were expelled by General St. Martin with an army from Buenos Ayres, who succeeded in the summer of 1821, after defeating Canterac, La Serna and other Royalist officers, in taking Lima and finally Calloa, the only place remaining in possession of the King's forces. The independence of the Province was declared July 15, 1821.

In Mr Rush's Memoranda, of the 31st July, 1818, he discloses the following official interview, with the British Secretary of State, for Foreign Affairs :

Had an interview with Lord Castlereagh, by appointment, at the French ambassador's, yesterday. He informed me that the court of *Madrid* had made *propositions* to Great Britain to mediate between *Spain and her colonies*, and invited the European Alliance to join. The invitation was given in a note from the Spanish ambassador in London, written early this month. He had not known of it at the time of our interview on the sixteenth, having then just got back from Ireland, and a convenient opportunity of noticing it had not offered when we were together afterwards. He had therefore sought this interview. He could not better unfold the subject than by putting into my hands the notes that had passed; first, the one from the Spanish ambassador; next, the answer of the British government, drawn up a few days ago; thirdly, as coupling itself with the subject, a note of the British government of the twenty-eighth of August 1817, addressed to the allied powers and made known to Spain, containing the sentiments of Great Britain as to a mediation at that time.

I read each note. The introductory matter of the Spanish ambassador's spoke of the rebellious nature of the war in the colonies, of the past clemency of Spain, and her continued willingness to terminate the quarrel. It then laid down the following as the basis on which a mediation was asked. 1. An amnesty to the colonies on their being *reduced*. Lord Castlereagh explained this word, which was a translation from the Spanish, by saying that Spain did not mean *conquered*, but only that the colonies must desist from hostility. 2. The king of Spain to employ in his public service in America, *qualified* Americans as well as European Spaniards. 3. The king to grant the colonies privileges of trade *adapted to the existing posture of things*. 4. The king to acquiesce in all measures the mediating powers might suggest to effect the above objects.

The British answer approved the propositions, as general ones, but called for explanations by which the meaning of some of them might be rendered more definite. It expressed an opinion that the dispute ought to be healed without taking away the political supremacy of the parent state. It declared that the trade of the colonies ought to be free to the rest of the world, the mother country being placed upon a footing of reasonable preference. Lastly it made known, that Great Britain would do no more than interpose friendly offices, using no compulsion should they fail.

The British note of August 1817, related chiefly to the commercial freedom of the colonies and the non-employment of force. It was very explicit on the first point, going the length the United States had done, of saying that Great Britain would *accept* no privileges of trade at the hands of the colonies not open to other nations; and on the second point, unequivocally disavowing all intention of forcing the colonies by arms, into any measures whatever. The proffered mediation at this period, went off on the question of the slave trade, Britain insisting on its abolition by Spain on terms to which the latter would not then assent.

When I had finished reading them, his lordship asked if I was in possession of the views of my own government as to a basis of settlement.

I replied in the affirmative; informing him that the desire of my government was, that the colonies should be completely emancipated from the parent state.—
It was also of opinion, that the contest never would, or could, be settled otherwise.

I added, *that the United States would decline taking part, if they took part at all, in any plan of pacification, except on the basis of the independence of the colonies.*

This was the determination to which my government had come, on much deliberation, and I was bound to communicate it in full candour. It had hoped that the views of Great Britain would have been the same.

His lordship appeared to receive the communication with regret. He admitted that the United States stood in different relations to the contest, from those which Great Britain held; as well by reason of the European engagements of the latter, as other causes. Still, he sincerely desired that our two governments should have acted in full harmony of opinion. He perceived the deep interest which the United States had in the whole question; on which account their concurrence with Europe on all the grounds of mediation, although they took no part in it, would not have been without an influence in rendering it effectual. The fundamental point of difference was further discussed between us; but I gave his lordship no reason to suppose that the determination of the United States would undergo a change. The conversation was conducted and terminated in a spirit altogether conciliatory."

The conclusion of the year 1821, left little doubt of the ultimate fate of all the Spanish provinces. The deputies of Columbia to the Cortes in Spain that year insisted at once on independence, and would not assent to any engagement upon any other basis, while those of Mexico were authorized to forego an acknowledgment, and do not appear even to have aspired to it.

The time had now arrived, when this government determined to recognise some of the new states in South America. This memorable disposition was communicated to Congress in a message, March 8th, 1822, as follows:

146. *Proposition to recognise the Independence of Mexico and the South American States communicated to Congress in a Message from President Monroe, dated Washington, March 8th, 1822.*

"The revolutionary movement in the Spanish provinces in this hemisphere, attracted the attention, and excited the sympathy of our fellow-citizens from its commencement. This feeling was natural and honorable to them, from causes which need not be communicated to you. It has been gratifying to all to see the general acquiescence which has been manifested, in the policy which the constituted authorities have deemed it proper to pursue in regard to this contest. As soon as the movement assumed such a steady and consistent form, as to make the success of the provinces *probable*, the rights to which they were entitled by *the law of nations*, as equal parties to a *civil war*, were extended to them. Each party was permitted to enter our ports with its public and private ships, and to take from them every article which was the subject of commerce with other nations. Our citizens, also, have carried on commerce with both parties, and the government has protected it with each, in articles not contraband of war. Through the whole of this contest the United States have remained neutral, and have fulfilled, with the utmost impartiality, all the obligations incident to that character.

This contest has now reached such a stage, and been attended with such decisive success on the part of the provinces, that it merits the most profound consideration, whether their right to the rank of independent nations, with all the advantages incident to it, in their intercourse with the United States, is not complete. Buenos Ayres assumed the rank by a formal declaration in 1816, and has enjoyed it since

1810, free from invasion by the parent country. The provinces composing the republic of Colombia, after having separately declared their independence, were united by a fundamental law of the 17th of December, 1819. A strong Spanish force occupied at that time certain parts of the territory within their limits, and waged a destructive war. That force has since been repeatedly defeated, and the whole of it either made prisoners or destroyed, or expelled from the country, with the exception of an inconsiderable portion only, which is blockaded in two fortresses. The provinces on the Pacific have likewise been very successful. Chili declared independence in 1818, and has since enjoyed it undisturbed, and, of late, by the assistance of Chili and Buenos Ayres, the revolution has extended to Peru. Of the movement in Mexico, our information is less authentic; but is it nevertheless, distinctly understood that the new government has declared its independence, and that there is now no opposition to it there, nor a force to make any. For the last three years the government of Spain has not sent a single corps of troops to any part of that country; nor is there any reason to believe it will send any in future. Thus it is manifest that all those provinces are not only in the full enjoyment of their independence, but, considering the state of the war and other circumstances, that there is not the most remote prospect of their being deprived of it.

When the result of such a contest is manifestly settled, the new governments have a claim to recognition by other powers, which ought not to be resisted. Civil wars too often excite feelings which the parties cannot control. The opinion entertained by other powers, as to the result, may assuage those feelings, and promote an accommodation between them, useful and honorable to both. The delay, which has been observed in making a decision on this important subject, will, it is presumed, have afforded an unequivocal proof to Spain, as it must have done to other powers, of the high respect entertained by the United States for her rights, and of their determination not to interfere with them. The provinces belonging to this hemisphere are our neighbors, and have successively, as each portion of the country acquired its independence, pressed their recognition, by an appeal to facts not to be contested, and which they thought gave them a just title to it. To motives of interest this government has invariably disclaimed all pretensions, being resolved to take no part in the controversy, or other measure in regard to it, which should not merit the sanction of the civilized world. To other claims a just sensibility has been always felt, and frankly acknowledged; but they, in themselves, could never become an adequate cause of action.

It was incumbent on this government to look to every important fact and circumstance, on which a sound opinion could be formed; which has been done.— When we regard, then, the great length of time which this war has been prosecuted, the complete success which has attended it in favor of the provinces; the present condition of the parties, and the utter inability of Spain to produce any change in it, we are compelled to conclude that its fate is settled, and that the provinces which have declared their independence, and are in the enjoyment of it, ought to be recognized.

Of the views of the Spanish government on this subject, no particular information has been recently received. It may be presumed that the successful progress of the revolution, through such a long series of years, gaining strength and extend-

ing annually in every direction, and embracing, by the late important events, with little exception, all the dominions of Spain, south of the United States, on this continent; placing, thereby, the complete sovereignty over the whole in the hands of the people, will reconcile the parent country to an accommodation with them, on the basis of their unqualified independence. Nor has any authentic information been recently received of the disposition of other powers respecting it. A sincere desire has been cherished to act in concert with them in the proposed recognition, of which several were sometime past duly apprized, but it was understood that they were not prepared for it. The immense space between those powers, even those which border on the Atlantic and these provinces, makes the movement an affair of less interest and excitement to them than to us. It is probable, therefore, that they have been less attentive to its progress than we have been. It may be presumed, however, that the late events will dispel all doubt of the result.

In proposing this measure, it is not contemplated to change thereby, in the slightest manner, our friendly relations with either of the parties, but to observe, in all respects, as heretofore, should the war be continued, the most perfect neutrality between them. Of this friendly disposition an assurance will be given to the government of Spain, to whom it is presumed it will be as it ought to be, satisfactory. The measure is proposed under thorough conviction that it is in strict accord with the law of nations; that it is just and right, as to the parties, and that the United States owe it to their station and character in the world, as well as to their essential interests, to adopt it. Should congress concur in the view herein presented, they will doubtless see the propriety of making the necessary appropriations for carrying it into effect.

JAMES MONROE.

147. *Report of the House of Representatives.*

Extracts from a report of the House of Representatives, made on the subject of the above communication :

“That the provinces of Buenos Ayres after having, from the year 1810, proceeded in their revolutionary movements without any obstacle from the government of Spain, formally declared their independence of that government in 1816. After various intestine commotions and external collisions, those provinces now enjoy domestic tranquillity and a good understanding with all their neighbors, and actually exercise, without opposition from within, or the fear of annoyance from without, all the attributes of sovereignty.

“The provinces of Venezuela and New Granada, after having separately declared their independence, sustained, for a period of more than ten years, a desolating war against the armies of Spain, and having severally attained, by their triumph over those armies, the object for which they contended, united themselves on the 19th of December, 1819, in one nation, under the title of ‘The Republic of Colombia.’

“The Republic of Colombia has now a well organized government, instituted by the free will of its citizens, and exercises all the functions of sovereignty, fearless alike of internal and foreign enemies. The small remnant of the numerous armies, commissioned to preserve the supremacy of the parent state, is now blockaded in two fortresses, where it is innocuous, and where, deprived, as it is, of all

hope of succor, it must soon surrender at discretion; when this event shall have occurred, there will not remain a vestige of foreign power in all that immense republic, containing between three and four millions of inhabitants.

“The province of Chili, since it declared its independence in the year 1818, has been in the constant and unmolested enjoyment of the sovereignty, which it then assumed.

“The province of Peru, situated like Chili beyond the Andes, and bordering on the Pacific Ocean, was, for a long time, deterred from making any effectual effort for independence by the presence of an imposing military force, which Spain had kept up in that country. It was not, therefore, until the 12th of June of the last year, that its capital, the city of Lima, capitulated to an army, chiefly composed of troops from Buenos Ayres and Chili, under the command of General San Martin. The greatest part of the royal troops, which escaped on that occasion, retreated to the mountains, but soon left them to return to the coast, there to join the royal garrison in the fortress of Calloa. The surrender of that fortress, soon after, to the Americans, may be regarded as the termination of the war in that quarter.

“The revolution in Mexico has been, somewhat, different in its character and progress, from the revolutions in other Spanish American provinces, and its result, in respect to the organization of its internal government has, also, not been precisely the same. Independence, however, has been as emphatically declared and as practically established since the 24th of August last by the ‘Mexican Empire,’ as ever it has been by the republics of the South; and her geographical situation, her population and her resources, eminently qualify her to maintain the independence she has thus declared and now actually enjoys.

“*Who is the rightful sovereign* of a country, is not an enquiry permitted to foreign nations, to whom it is competent only to treat with the ‘powers that be.’

“There is no difference of opinion on this point among the writers on public law: and no diversity with respect to it in the practice of civilized nations. It is unnecessary here to cite authority for a doctrine familiar to all, who have paid the slightest attention to the subject, nor to go back for its practical illustration to the civil wars between the houses of York and Lancaster. Have we not, indeed, within the brief period of our own remembrance, beheld governments vary their forms and change their rulers, according to the prevailing power or passion of the moment, and doing so in virtue of the principle now in question, without materially and lastingly affecting their relations with other governments? Have we not seen the emperors and kings of yesterday receive on the thrones of exiled sovereigns, who claimed the right to reign there, the friendly embassies of other powers, with whom those exiled sovereigns had sought an asylum,—and have we not seen to-day those emperors and kings thus courted and recognised yesterday, reft of their sceptres, and, from a mere change of circumstances, not of right, treated as usurpers by their successors, who, in their turn, have been acknowledged and addressed by the same foreign powers?

“‘Even when civil war breaks the bonds of society and of government, or, at least, suspends their force and effect, it gives birth in the nation to two independent parties, who regard each other as enemies and acknowledge no common judge.’ It is of necessity, therefore, that these two parties should be considered

by foreign states as two distinct and independent nations. To consider or treat them otherwise would be to interfere in their domestic concerns, to deny them the right to manage their own affairs in their own way, and to violate the essential attributes of their respective sovereignty. For a nation to be entitled to respect in foreign states, to the enjoyment of these attributes, and to figure directly in the great political society, it is sufficient that it is really sovereign and independent, that it governs itself by its own authority and laws. The people of Spanish America do notoriously so govern themselves, and the right of the United States to recognise the governments, which they have instituted, is incontestable. A doubt of the expediency of such a recognition can be suggested only by the apprehension, that it may injuriously affect our peaceful and friendly relations with the nations of the other hemisphere.

“No nation in Europe, excepting Spain herself, has hitherto, opposed force to the independence of South America. Some of those nations have not only constantly maintained commercial and friendly intercourse with them in every stage of the revolution, but indirectly and efficiently, though not avowedly, aided them in the prosecution of their great object. To these the acknowledgment by the United States of the attainment of that object must be satisfactory.

“To the other nations of Europe, who have regarded the events occurring in Spanish America, not only without interference, but with apparent indifference, such an acknowledgment ought not to be offensive.

“The nations, who have thus, respectively, favored or never opposed the Spanish American people during their active struggle for independence, cannot, it is believed, regard with dissatisfaction the formal recognition of that independence by a nation, which, while that struggle lasted, has religiously observed towards both the conflicting parties all the duties of neutrality. Your committee are, therefore, of opinion, that we have a right on this occasion confidently to expect, from what these nations have done or forborne to do, during the various fortunes of the civil war, which has terminated, that they will frankly approve the course of policy, which the United States may now think proper to adopt in relation to the successful party in that war. It surely cannot be reasonably apprehended, that nations, who have thus been tranquil spectators, the apparent well wishers, if not the efficient supporters of this party, and who have not made the faintest attempt to arrest its progress, or to prevent its success, should be displeased with a third power, for merely recognising the governments, which, owing to that success, have thus been vitally permitted or impliedly approved in acquiring the undisputed, and exclusive control of the countries in which they are established.”

“*Resolved*, that the house of representatives concur in the opinion expressed by the president in his message of the 8th of March, 1822, that the American provinces of Spain, which have declared their independence: and are in the enjoyment of it, ought to be recognized by the United States as independent nations.

“*Resolved*, that the committee of ways and means be instructed to report a bill, appropriating a sum, not exceeding one hundred thousand dollars, to enable the president to give due effect to such recognition.”

[Accordingly, on the 4th of May 1822, an act of Congress made an appropriation of 100,000 dollars “for such missions to the independent nations on the American continent as the President of the United States might deem proper.”]

148. *Protest of the Spanish Minister, Don Joaquin de Anduaga.*

In the National Intelligencer (the envoy writes March 9th, 1822, to the Secretary of State) 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 to 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 harrassed and prosecuted 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 reunion 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 or 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 dominion.*

I remain, &c.

JOAQUIN DE ANDUAGA.

149. *Reply of 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 organize 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 and 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.

150. *Extract from a Manifesto addressed by Spain to the Courts in Europe, in 1823, in consequence of the President's Message of 9th March, 1822.*

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 for his Catholic Majesty 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 dignity from the imminent risk of a foreign usurpation, could occasion a disunion so fatal between the members of one and the same family.

His Catholic Majesty 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.

His Catholic Majesty 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. The same, his Majesty 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 it must produce in the reciprocal relations of the one and the other hemisphere; but his Catholic Majesty 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.

There will, perhaps, be 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, renders its existence legitimate.

But the governments fortunately know, by a sad experience, the effects, which are produced by a similar overthrow of principle, they foresee the consequence of its propagation, not less fatal to legitimate governments, than to the integrity of nations, and are well aware of the consequences to Europe of sanctioning in America, as some pretend, the undefined right of insurrection.

Thus it is, that his Catholic Majesty believes not only interested in this question those nations who possess colonies and establishments in Ultramar, to which the same theory could be applied, but that he, also, considers this business as intimately connected with those conservatory principles, that offer securities to all governments and guaranties to society.

151. *Extracts from Mr Adams' Instructions to Mr Anderson, Minister Plenipotentiary to Colombia, dated 27th May, 1823.*

Exposition of the Principles upon which the United States are desirous of founding their future Political Intercourse with the new Nations of South America.

It was impossible that such a system as Spain had established over her colonies, should stand before the progressive improvement of the understanding in this age, or that the light shed upon the whole earth by the results of our Revolution should leave in utter darkness the regions immediately adjoining ourselves.

The independence of the Spanish colonies, has proceeded from other causes, and has been achieved upon principles in many respects different from ours. In our Revolution the principle of the social compact was, from the beginning, in immediate issue. It originated in a question of *right*, between the government in Europe, and the subject in America. Our *Independence* was declared in defence

of our *liberties*, and the attempt to make the yoke a yoke of oppression was the cause and the justification for the casting it off.

The President has considered the question of recognition both in a moral and political view, as merely a question of the proper *time*. While Spain could entertain a reasonable hope of maintaining the war, and of recovering her authority, the acknowledgment of the Colonies as Independent States, would have been a wrong to her; but she had no right, upon the strength of this principle, to maintain the pretensions, after she was manifestly disabled from maintaining the contest, and by unreasonably withholding her acknowledgment, to deprive the Independents of their right to demand the acknowledgment of others. To fix upon the precise *time*,—when the duty to respect the prior sovereign right of Spain should cease, and that of yielding to the claim of acknowledgment would commence, was a subject of great delicacy, and to the President, of constant and anxious solicitude. It naturally became, in the first instance, a proper subject of consultation, with other Powers, having relations of interest to themselves, with the newly opened countries, as well as influence in the general affairs of Europe. —The recognition of the Independence of Buenos Ayres became a subject of consideration at the deliberations of the Congress of Aix la Chapelle, in October, 1818. There is reason to believe that it disconcerted projects which were there entertained of engaging the European Alliance in actual operations against the South Americans, as it is well known that a plan for their joint mediation, between Spain and her Colonies, for restoring them to her authority, was actually matured and finally failed at that place, only by the refusal of Great Britain to accede to the condition of employing *force* eventually against the South Americans, for its accomplishment. Some dissatisfaction was manifested by several members of the Congress at Aix la Chapelle, at this avowal on the part of the United States, of their readiness to recognise the independence of Buenos Ayres.

The formation of the Republic of Colombia, by the fundamental law of 17th December, 1819, was notified to this Government, by its Agent, the late Don Manuel Torres, on the 20th February, 1821, with a request that it might be recognized by the Government of the United States, and a proposal for the negotiation of Treaties of Commerce and Navigation, *founded upon the basis of reciprocal utility and perfect equality*, as the most efficacious means of strengthening and increasing the relations of amity between the two Republics.

The request and proposal were renewed in a letter from Mr. Torres, of the 30th of November, 1821, and again repeated on the 2d of January, 1822.

Under these circumstances, a resolution of the House of Representatives of the United States, on the 30th of January, 1822, requested of the President to lay before the House the communications from the Agents of the United States, with the Governments South of the United States, which had declared their Independence; and those from the Agents of such Governments here, with the Secretary of State, tending to shew the political condition of their Governments, and the state of the war between them and Spain. In transmitting to the House the papers called for by this resolution, the President, by his message of 8th March, 1822, declared his own persuasion that the time had arrived when, in strict conformity to the law of nations and in the fulfilment of the duties of equal and

impartial justice to all parties, the acknowledgment of the Independence declared by the Spanish American Colonies could no longer be withheld.

On the 17th day of June, 1822, Mr Manuel Torres was received by the President of the United States as the Chargé d'Affaires from the Republic of Colombia, and the immediate consequence of our recognition was the admission of the vessels of the South American nations, under their own colors, into the ports of the principal maritime nations of Europe.—

The European alliance of Emperors and Kings have assumed, as the foundation of human society, the doctrine of unalienable *allegiance*. Our doctrine is founded upon the principle of unalienable *right*. The European allies, therefore, have viewed the *cause* of the South Americans as rebellion against their lawful sovereign. We have considered it as the assertion of natural right. They have invariably shewn their disapprobation of the revolution, and their wishes for the restoration of the Spanish power. We have as constantly favored the standard of independence and of America. In contrasting the principles and the motives of the European Powers, as manifested in their policy towards South America, with those of the United States, it has not been my intention to boast of our superior purity, or to lay a claim of merit to any extraordinary favor from South America in return. Disinterestedness must be its own reward: but, in the establishment of our future political and commercial intercourse with the new Republics, it will be necessary to recur often to the principles in which it originated: they will serve to mark the boundaries of the rights which we may justly claim in our future relations with them, and to counteract the efforts, which it cannot be doubted, European negotiators will continue to make in the furtherance of their monarchical and monopolizing contemplations.

In the letter of 20th February, 1821, from the late Mr Torres, demanding the recognition of the Republic of Columbia, it has been observed, that the additional proposal was made, of negotiating "*treaties of navigation and commerce*, founded upon the bases of reciprocal utility and perfect equality, as the most efficacious means of strengthening and increasing the relations of amity between the two Republics."

In compliance with this proposal, among the documents furnished you, for proceeding upon the mission to which you have been appointed, of Minister Plenipotentiary to the Republic of Colombia, is a full power which will authorize you to negotiate with any Plenipotentiary or Plenipotentiaries of that Government duly provided with like powers, such a treaty. The President wishes, however, that every step in such negotiation should be taken with full deliberation. The treaty, if concluded, must, as you are aware, be reserved subject to ratification here, with the advice and consent of the Senate, by the constitutional majority of two-thirds, as by the constitution of Colombia, (article 120,) their treaties, to be valid, must receive the consent and approbation of their Congress.

Our commercial relations with the Colombian Territory, are of so recent origin, and have depended so much upon the revolutionary condition of that country, under which they have arisen, that our knowledge of their state and character is very imperfect, although we are certain that they are altogether different from those which may be expected to arise from permanent interests; when the Independence of the

Republic shall be universally recognized, and a free trade shall be opened to its inhabitants, with all parts of the world. The only important point now to be settled, as the radical principle of all our future commercial intercourse, is the basis proposed by Mr Torres, of *reciprocal utility and perfect equality*. As the necessary consequence of which, you will claim that, without waiting for the conclusion of a treaty, the commerce and navigation of the United States, in the ports of the Colombian Republic, should be received on the footing of equality with the most favored nation. It is hoped, indeed, that on your arrival at the place of your destination, you will find the principle already settled; assurances to that effect having been given by the Minister of Foreign Relations, to Mr Todd.

The spirit of the Colombian Constitution, is explicitly that of entire and unqualified independence; and the sentiments expressed by Dr Gual to Mr Todd, have been altogether conformable to it. He has declared, that the intention of the Government is to treat all *foreign* nations upon the footing of equal favor and of perfect reciprocity. This is all that the United States will require, and this so far as their interests are concerned, they have a right to exact.

It had been, in the first instance, proposed by Mr Torres, that the Treaty of Commerce and Navigation should be negotiated *here*, and he informed me that a Minister would be appointed, with powers and instructions sufficient for concluding it at this place. Dr Gual has informed Mr Todd, that the views of the Colombian Government have since undergone a change; and although they have appointed Mr Salazar as Envoy Extraordinary and Minister Plenipotentiary to the United States, and in March last he was under instructions to proceed forthwith upon his mission to this country, they were nevertheless, exceedingly desirous that the *Treaty* should be negotiated there.

The President deems it of no material importance to the United States whether the Treaty shall be negotiated at Washington or at Bogota: but the proposal having first been made for concluding it here, it was natural to inquire what it was that produced the change in the wishes of the Colombian Government with regard to the seat of the negotiation. Dr Gual intimated confidentially to Mr Todd, that it had proceeded from two causes; one, the desire to establish a *precedent*, which might prevail upon the great *European* Governments to negotiate likewise with the Republic at its own Capital, and thereby hasten them to the recognition of Colombian Independence; and the other a jealousy of their own negotiators in Europe, who were apt to become themselves entangled with European intrigues, and to involve the Republic in unsuitable and perplexing engagements. With regard to the second of these causes, whatever occasion may have been given to the distrust of their own agents which it avows, it could have no application to their transaction, with the United States. By assuming the principles of independence, equality, and reciprocity as the foundations of all our negotiations, we discard all the incentives and all the opportunities for double dealing, overreaching and corrupt caballing. We shall ask nothing which the Colombian Republic can have any interest to deny. We shall offer nothing for which she may be unwilling to yield the fair equivalent. To the other reason, however, the President the more readily accedes, because perceiving its full force, it gives him an opportunity of manifesting in action the friendly disposition of the United States towards the Republic, and their readiness

to promote by all proper means the recognition of its Independence, by the great European Powers.

In the negotiation of all commercial Treaties there is undoubtedly an advantage, at least of convenience, enjoyed by the party which treats *at home*; and this advantage requires greater importance, when as is now the case with both parties, the Treaty to become valid must obtain the consent of the legislative assemblies. This advantage in the ordinary course of things accrues to the party to whom the proposal of negotiation is first made. Independent then of all questions of precedence, and without resorting to the example of the first Treaties negotiated by the United States, both of which considerations have been mentioned by Mr Todd to Dr Gual, the United States might insist upon having the negotiation concluded *here*, not only as the first proposal of it was made to them, but because the proposal itself was that it should be concluded here. The President, however, is well aware of the stimulus which a Treaty negotiated, and even a negotiation known to be in progress at Bogota, will apply to the attention of European interests, and has no doubt that it will press them to the recognition more powerfully than they have been urged by the example, or are likely to be by the exhortations of the North American Government. You are accordingly furnished, by his direction, with the full power, necessary for the conclusion of the Treaty.

The only object which we shall have much at heart in the negotiation, will be the sanction by solemn compact of the broad and liberal principles of *independence, equal favors, reciprocity*. With this view I recommend to your particular attention the preamble, and first four articles of the first Treaty of amity and commerce between the United States and France, concluded on the 6th of February, 1778. The preamble is believed to be the first instance on the Diplomatic Record of Nations, upon which the true principles of all fair commercial negotiation, between Independent States were laid down and proclaimed to the world. That preamble was to the foundation of our commercial intercourse with the rest of mankind, what the Declaration of Independence was to that of our internal Government. The two instruments were parts of one and the same system, matured by long and anxious deliberation of the founders of this Union in the ever memorable Congress of 1776; and as the Declaration of Independence was the fountain of all our municipal institutions; the preamble to the Treaty with France laid the corner stone for all our subsequent transactions of intercourse with foreign nations. Its principles should be therefore deeply impressed upon the mind of every statesman and negotiator of this Union, and the first four articles of the Treaty with France, contain the practical exposition of those principles which may serve as models for insertion in the projected Treaty, or in any other that we may hereafter negotiate with any of the rising Republics of the South.

There is indeed a principle of still more expansive liberality, which may be assumed as the basis of commercial intercourse between nation and nation. It is that of placing the *foreigner*, in regard to all objects of navigation and commerce, upon a footing of equal favor with the *native* citizen, and to that end, of abolishing all discriminating duties and charges whatsoever. This principle is altogether congenial to the spirit of our institutions, and the main obstacle to its adoption consists in this: that the fairness of its operation depends upon its being admitted

universally. For, while two maritime and commercial nations should bind themselves to it as a compact operative only between them, a third Power might avail itself of its own restrictive and discriminating regulations, to secure advantages to its own People, at the expense of both the parties to the Treaty. The United States have nevertheless made considerable advances in their proposals to other nations towards the general establishment of this most liberal of principles of commercial intercourse.—

Among the usual objects of negotiation in treaties of commerce and navigation, are the liberty of conscience, and of religious worship. Articles to this effect have been seldom admitted in Roman Catholic countries, and are even interdicted by the present constitution of Spain. The South American Republics have been too much under the influence of the same intolerant spirit; but the Colombian Constitution is honorably distinguished by exemption from it. The 10th and 11th articles of our treaty with Prussia, or articles to the like effect, may be proposed for insertion in the projected treaty; and after setting the first example in South America, of a Constitution unsullied by prohibitions of religious liberty, Colombia will deserve new honors in the veneration of present and future ages, by giving her *positive* sanction to the freedom of conscience, and by stipulating it in her first treaty with these United States. It is, in truth, an essential part of the system of American Independence. Civil, political, commercial, and religious liberty, are but various modifications, of one great principle, founded in the unalienable rights of human nature, and before the universal application of which, the Colonial Domination of Europe, over the American hemisphere, has fallen, and is crumbling into dust. *Civil* liberty *can* be established on no foundation of human reason, which will not at the same time demonstrate the *right* to religious freedom. The tendency of the spirit of the age is so strong towards religious liberty, that we cannot doubt it will soon banish from the Constitutions of the Southern Republics of this hemisphere: all those intolerant religious establishments, with which they have hitherto been trammelled. Religious and military coercion will be alike discarded from all the institutions framed for the protection of human rights, in civil society of independent nations; and the freedom of opinion and of faith, will be guaranteed by the same sanction as the rights to personal liberty and security. To promote this event by all the moral influence which we can exercise, whether of example, of friendly counsel, or of persuasion, is among the duties which devolve upon us in the formation of our future relations with our Southern neighbors; and in the intercourse which is hereafter to subsist between us, as their citizens, who may visit, or transiently reside with us, will enjoy the benefit of religious freedom in its utmost latitude: we are bound to claim for our countrymen, who may occasionally dwell for a time with them, the reciprocal exercise of the same natural rights.—

Let Colombia look to *commerce* and *navigation*, and not to *empire*, as her *means* of communication with the rest of the human family. *These* are the *principles* upon which our confederated Republic is founded, and they are those upon which we hope our sisters of the southern continent will ultimately perceive it to be for their own welfare, no less than for that of the world, that they should found themselves.—

The Colombian Government, at various times, have manifested a desire that the United States should take some further and active part in obtaining the recognition of their Independence by the European Governments, and particularly by Great Britain. This has been done even before it was solicited. All the Ministers of the United States in Europe, have, for many years, been instructed to promote the cause, by any means consistent with propriety, and adapted to their end, at the respective places of their residence. The formal proposal of a concerted recognition was made to Great Britain before the Congress of Aix la Chapelle. At the request of Mr. Torres, on his dying bed, and signified to us after his decease, Mr. Rush was instructed to give every aid in his power, without offence to the British Government, to obtain the admission of Mr. Ravenga; of which instruction, we have recent assurances from Mr. Rush that he is constantly mindful. Our own recognition, undoubtedly, opened all the ports of Europe to the Colombian flag, and your mission to Colombia, as well as those to Buenos Ayres and Chili, cannot fail to stimulate the Cabinets of maritime Europe, if not by the liberal motives which influenced us, at least, by selfish impulses, to a direct, simple, and unconditional recognition. We shall pursue this policy steadily through all the changes to be foreseen, of European affairs. There is every reason to believe that the preponderating tendency of the war in Spain, will be to promote the universal recognition of all the South American Governments; and, at all events, our course will be to promote it by whatever influence we may possess.

By the general *usage* of nations, independent of treaty stipulations, the property of an enemy is liable to capture in the vessel of a friend. It is not possible to justify this rule upon any sound principle of the law of nature; for, by that law, the belligerent party has no right to pursue or attack his enemy without the jurisdiction of either of them. The high seas are a general jurisdiction common to all, qualified by a special jurisdiction of each nation over its own vessels. As the theatre of general and common jurisdiction, the vessels of one nation and their commanders have no right to exercise over those of another any act of authority whatsoever. This is universally admitted in time of peace. War gives the belligerent a right to pursue his enemy within the jurisdiction common to both: but not into the special jurisdiction of the neutral party. If the belligerent has a right to take the property of his enemy on the seas, the neutral has a right to carry and *protect* the property of his friend on the same element. War gives the belligerent no natural right to take the property of his enemy from the vessel of his friend. But as the belligerent is armed, and the neutral, as such, is defenceless, it has grown into *usage* that the belligerent should take the property of his enemy; paying the neutral his freight and submitting the question of facts to the tribunals of the belligerent party. It is evident, however, that this *usage* has no foundation in neutral right, but has arisen merely from *force*, used by the belligerent, and which the neutral, in the origin, did not resist, because he had not the power. But it is a usage, harsh and cruel in its operation, and unjust in its nature: and it never fails, in time of maritime war, to produce irritation and animosity between the belligerent and the neutral. So universally has this been found to be its consequence, that *all* the maritime nations of modern Europe have shown their sense of it, by stipulating in treaties the contrary principle, namely, that the

property of an enemy shall be *protected* in the vessel of a friend. Great Britain herself, the most unwilling to admit this principle, because the most enabled to use the *force*, upon which the usage is founded, has recognized the superior justice and expediency of the other principle, by stipulating it at distant intervals of time, in two treaties with France; the treaty of Utrecht, and the treaty of Commerce, of 1786.

In the seven years war, the king of Prussia resisted the capture, by British vessels, of the property of their enemies, in the vessels of his subjects, then neutrals, and made reprisals upon British property for such captures. The question was then ultimately settled by a compromise, under which the British Government paid a large sum of money for indemnity to the Prussian subjects who had suffered by those captures. The armed neutrality of the American war, is a memorable example of the testimony by all the civilized nations of the world, to the principle, that the protection of all property, excepting contraband of war, on board of neutral vessels, by neutral force, is of *natural right*—and of this principle there can be no question. If, however, a belligerent power, founded upon the *usage* which has superseded the natural right, practices the seizure and condemnation of enemy's property found in the vessel of a friend, it remains for the neutral to decide, whether he will acquiesce in the usage, or whether he will maintain his natural right by force. No neutral nation is bound to submit to the usage: for it has none of the properties which can give to any usage the sanction of obligatory law. It is not reasonable. It is not conformable to the law of nature. It is not *uninterrupted*. But reduced to the option of maintaining its right by force, or of acquiescing in the disturbance of it which has been usual, the neutral nation may yield, at one time, to the usage, without sacrificing her right to vindicate by force the security of her flag at another. And the belligerent nation, although disposed to admit the right of neutrals to protect the property of her enemy upon the seas, may yet justly refuse the benefit of this principle, unless admitted also by the enemy, for the protection of her property, by the same neutral flag. Thus stands the state of this question upon the foundations of *natural, voluntary, and customary law*.

How stands it between us and the Republic of Colombia, on the ground of *conventional law*? By a treaty between the United States and Spain, concluded at a time when Colombia was a part of the Spanish dominions, and so far as the *Spanish laws* would admit, enjoyed the benefit of its stipulations, the principle that free ships make free goods, was expressly recognized and established. Is it asserted that by her declaration of independence, Colombia has been entirely released from all the obligations, by which as a part of the Spanish nation she was bound to other nations? This principle is not tenable. To all the engagements of Spain with other nations, affecting their rights and interests, Colombia, so far as she was affected by them, remains bound in honor and in justice. The stipulation now referred to is of that character, and the United States, besides the natural right of protecting by force, in their vessels on the seas, the property of their friends, though enemies of the Republic of Colombia, have the additional claim to the benefit of the principle, by an express compact with Spain, made when Colombia was a Spanish country. Again, by the late treaty of 22d February, 1819, between the United States and Spain, it is agreed that the 15th article of the treaty of 1795, in which it is stipulated that the flag shall cover the property, shall

be so understood with respect to those Powers, who recognize the principle : but, if either of the two contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose governments acknowledge the principle, and not of others.—

A resolution of the House of Representatives of the late Session of Congress, requests the President of the United States 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.

In pursuance of this object you will communicate to the Colombian Government copies of the several acts of our Congress, for the suppression of the Slave Trade, of the 20th of April, 1818,* (United States laws, vol. vi. p. 225.) of 3d March, 1819,* (p. 435.) and of 15th May, 1820,* (p. 529.) pointing their attention particularly to the fourth and fifth sections of the last, which subject to the penalties of piracy every citizen of the United States guilty of active participation in the African Slave Trade. The adoption of this principle in the Legislative code of all the maritime nations, would, of itself, probably suffice for the suppression of the trade. But, as it would yet not authorize the armed vessels of any one nation to capture those of another, engaged in the trade, a stipulation to that effect may be agreed to by the Treaty, conditioned that the captor shall deliver over the captured party to the tribunals of his own country for trial, to which should be added some guard of responsibility upon the capturing officer, to prevent the abusive exercise of his power.

Our intercourse with the Republic of Colombia, and with the Territories of which it is composed, is of recent origin, formed, while their own condition was altogether revolutionary, and continually changing its aspect. Our information concerning them is imperfect, and among the most important objects of your mission will be that of adding to its stores ; of exploring the untrodden ground, and of collecting and transmitting to us the knowledge by which the friendly relations between the two countries may be extended and harmonized to promote the welfare of both, with due regard to the peace and good will of the whole family of civilized man. It is highly important that the first foundations of the permanent future intercourse between the two countries should be laid in principles, benevolent and liberal in themselves, congenial to the spirit of our institutions, and consistent with the duties of universal philanthropy.

In all your consultations with the Government to which you will be accredited, bearing upon its political relations with this Union, your unvarying standard will be the spirit of independence and of freedom, as *equality of rights* and favors will be that of its commercial relations. The emancipation of the South American Continent, opens to the whole race of man prospects of futurity, in which this Union will be called, in the discharge of its duties to itself and to unnumbered ages of posterity, to take a conspicuous and leading part. It involves all that is precious in hope, and all that is desirable in existence, to the countless millions of our fellow creatures, which, in the progressive revolution of time, this hemisphere is destined to rear and to maintain.

* See pages 114, 116, and 122, of this volume, for these laws, at large.

That the fabric of our social connections with our Southern neighbors may rise, in the lapse of years, with a grandeur and harmony of proportion corresponding with the magnificence of the means, placed by Providence in our power, and in that of our descendants, its foundations must be laid in principles of politics and of morals, new and distasteful to the thrones and dominations of the elder world; but co-extensive with the surface of the globe, and lasting as the changes of time.

JOHN Q. ADAMS.

152. *Mr Middleton to Mr Clay. Extract.*

Friendly intervention of the Emperor of Russia, for terminating the contest between Spain and Spanish America.

St. Petersburg, 27th Aug. (8th Sep.) 1825. Sir: We are left to infer from the proposal (to wit:) that the Emperor shall lend his aid towards the conclusion of the war between Spain and her Colonies, by interposing his good offices in the form of pacific council to the mother country, that it has been communicated to the Allied Cabinets, and I am fully of opinion, that the majority, if not the whole of them, would agree to it. If such should be the event, the Diplomatic Committee sitting at Paris will be instructed accordingly. The chief difficulty to be overcome will be in the Cabinet of the King of Spain, where it is understood that *all parties* are opposed to the independence of the Colonies. The necessity of the case, however, begins to be so crying, that a hope may be entertained that even there the counsels of wisdom may ere long be listened to. For obvious reasons we must not expect to learn, *officially*, that such advice, as that alluded to above, has been given, unless it should be attended to. I have the honor to be, &c.

HENRY MIDDLETON.

153. *Count Nesselrode to Mr Middleton.*

St. Petersburg, Aug. 20, 1825. The undersigned, Secretary of State, directing the Imperial Administration of Foreign Affairs, hastened to submit to the Emperor the note with which Mr Middleton, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, did the honor to address him, on the 2d July last, accompanying a copy of the despatch from Mr Clay, in which that Minister, in the name of the Cabinet at Washington, urges the necessity of confirming the general peace, by terminating the contest of the Spanish Colonies against the government of his Catholic Majesty; of securing to Spain the peaceful possession of the islands of Cuba and Porto Rico; and of effecting these objects by the impartial intervention of Russia.

The principles of the Emperor were sufficiently known to the government of the United States, to justify the perfect confidence that in expressing a wish for the continuance and confirmation of the peace enjoyed by the world, it did represent the most sincere desire of his Imperial Majesty, that, in professing a generous solicitude for the rights of Spain, over her Islands in the West Indies, it avowed principles that had long since been adopted by Russia, as the basis of her political system; and that, in anticipating perfect impartiality and true disinterestedness from her intervention, it was not deceived as to the sentiments of the Emperor, in relation to all arrangements in which Foreign powers might be pleased to claim or admit his good offices.

His Imperial Majesty felicitates himself with having inspired this confidence in the United States of America, and the undersigned is charged to invite Mr

Middleton to convey to his Government the assurance of the high value at which the Emperor estimates those sentiments, of which new evidence is furnished by its present propositions.

The opinions of his Imperial Majesty as to the question discussed by Mr Clay in his despatch, cannot be concealed from the Cabinet of Washington. His Imperial Majesty has ever thought that justice, the law of nations, the general interest in having the indisputable titles of sovereignty respected, could not allow the determinations of the mother country in this important case, to be prejudged or anticipated. On the other side, whenever Spain has wished to discuss the future condition of South America, has addressed overtures to all the Allied Powers of Europe. It will not be possible, therefore, for his Imperial Majesty to change principles in this negotiation, nor to institute it separately (*isolément*); and until positive information has been received of the ulterior views of Spain, in regard to her American possessions, of her decision upon the proposition of the United States, and of the opinions of her Allies in relation to the same subject, Russia cannot give a definitive answer.

She is, however, in the mean while, pleased to hope, that the United States, becoming every day more convinced of the evils and dangers that would result to Cuba and Porto Rico from a change of government, being satisfied, as Mr Clay has said, in his despatch, with the present commercial legislation of these two Islands, and deriving an additional motive of security from the honorable resolution of Spain not to grant to them any longer letters of marque, will use their influence, in defeating, as far as may be in their power, every enterprise against these Islands, in securing to the rights of his Catholic Majesty constant and proper respect, in maintaining the only state of things that can preserve a just balance of power in the sea of the Antilles, prevent shocking examples, and, as the Cabinet of Washington has remarked, secure to the general peace, salutary guarantees.— The undersigned seizes, with pleasure, this occasion to repeat to Mr Middleton, the assurances of his very distinguished consideration. NESSELRODE.

154. *Extracts from President Adams' Exposition of his Motives for approving of the Panama Mission.*

Communicated in a Message to the House of Representatives of the United States.

Washington, March 15, 1826. The great revolution in human affairs which has brought into existence, nearly at the same time, eight sovereign and independent nations in our own quarter of the globe, has placed the United States in a situation not less novel, and scarcely less interesting, than that in which they had found themselves, by their own transition, from a cluster of colonies to a nation of Sovereign States. The deliverance of the Southern American Republics from the oppression under which they had been so long afflicted, was hailed with great unanimity by the people of this Union, as among the most auspicious events of the age.—

In exercising the authority recognized by this act,* my predecessor, by and with the advice and consent of the Senate, appointed, successively, Ministers Plenipotentiary to the Republics of Colombia, Buenos Ayres, Chili, and Mexico. Unwilling to raise among the fraternity of freedom, questions of precedence and etiquette, which even the European monarchs had of late found it necessary in a

* Appropriating \$100,000 for South American missions.

great measure to discard, he despatched these ministers to Colombia, Buenos Ayres and Chili, without exacting from those Republics, as, by the ancient principles of political primogeniture he might have done, that the compliment of a plenipotentiary mission should have been paid *first* by them to the United States. The *instructions* prepared, under his directions, to *Mr Anderson*, the first of our Ministers to the Southern Continent, contain, at much length, the general principles upon which he (the President) thought it desirable that our relations, political and commercial, with these, our new neighbors, should be established, for their benefit and ours, and that of the future ages of our posterity. A copy of so much of these instructions as relates to these *general subjects*, is among the papers now transmitted to the House.* Similar instructions were furnished to the Ministers appointed to Buenos Ayres, Chili, and Mexico; and the system of social intercourse which it was the purpose of those missions to establish from the first opening of our diplomatic relations with those rising nations, is the most effective *exposition* of the *principles* upon which the invitation to the Congress at Panama has been accepted by me, as well as of the objects of negotiation at that meeting, in which it was expected that our Plenipotentiaries should take part.

The House will perceive that, even at the date of these instructions, the first treaties between some of the Southern Republics had been concluded, by which they had stipulated among themselves this diplomatic assembly at Panama. And it will be seen with what caution, so far as it might concern the policy of the United States, and, at the same time, with what frankness and good will towards those nations, he gave countenance to their design of inviting the United States to this high Assembly for consultation upon *American interests*. It was not considered a conclusive reason for declining this invitation, that the proposal for assembling such a Congress had not first been made by ourselves. It had sprung from the urgent, immediate, and momentous common interests of the great communities struggling for independence, and, as it were, quickening into life. From them the proposition to us appeared respectful and friendly; from us to them it could scarcely have been made, without exposing ourselves to suspicions of purposes of ambition, if not of domination, more suited to rouse resistance and excite distrust, than to conciliate favor and friendship. The first and paramount principle upon which it was deemed wise and just to lay the corner-stone of all our future relations with them was *disinterestedness*; the next was cordial good will to them; the third was a claim of fair and equal reciprocity. Under these impressions, when the invitation was formally and earnestly given, had it even been doubtful, whether *any* of the objects proposed for consideration and discussion at the Congress were such as that immediate and important interests of the United States would be affected by the issue, I should, nevertheless, have determined, so far as it depended upon me, to have accepted the invitation, and to have appointed ministers to attend the meeting. The proposal itself implied that the Republics, by whom it was made, *believed* that important interests of ours or of theirs, rendered our attendance there desirable. They had given us notice, that, in the novelty of their situation, and in the spirit of deference to our experience, they would be pleased to have the benefit of our friendly council. To meet the temper with which this proposal was made, with a cold repulse, was not thought congenial to that

* See page 648 ante.

warm interest in their welfare, with which the People and the Government of the Union had hitherto gone hand in hand through the whole progress of their Revolution. To insult them by a refusal of their overture, and then invite them to a similar Assembly to be called by ourselves, was an expedient which never presented itself to the mind. I would have sent Ministers to the Meeting, had it been merely to give them such advice as they might have desired, even with reference to *their own* interests, not involving ours. I would have sent them, had it been merely to explain and set forth to them our reasons for *declining* any proposals of specific measures to which they might desire our concurrence, but which we might deem incompatible with our interests or our duties. In the intercourse between nations, temper is a missionary, perhaps, more powerful than talent. Nothing was ever lost by kind treatment. Nothing can be gained by sullen repulses and aspiring pretensions.

Among the topics enumerated in official papers published by the Republic of Colombia, and adverted to in the correspondence now communicated to the House, as intended to be presented for discussion at Panama, there is scarcely one in which the *result* of the meeting will not deeply affect the interests of the United States. Even those in which the belligerent States alone will take an active part, will have a powerful effect upon the state of our relations with the American, and probably with the principal European, States. Were it merely that we might be correctly and speedily informed of the proceedings of the Congress, and of the progress and issue of their negotiations, I should hold it advisable that we should have an accredited agency with them, placed in such confidential relations with the other members, as would ensure the authenticity, and the safe and early transmission of its reports. Of the same enumerated topics, are the preparation of a manifesto, setting forth to the world the justice of their cause, and the relations they desire to hold with other Christian Powers; and to form a convention of navigation and commerce, applicable both to the confederated States and to their allies.

It will be within the recollection of the House, that immediately after the close of the war of our Independence, a measure closely analogous to this Congress of Panama, was adopted by the Congress of our Confederation, and for purposes of precisely the same character. Three commissioners, with plenipotentiary powers, were appointed to negotiate treaties of amity, navigation, and commerce, with all the principal Powers of Europe. They met, and resided for that purpose about one year at Paris; and the only result of their negotiations at that time, was the first treaty between the United States and Prussia—memorable in the diplomatic annals of the world, and precious as a monument of the principles, in relation to commerce and maritime warfare, with which our country entered upon her career as a member of the great family of independent nations.

At that time, in the infancy of their political existence, under the influence of those principles of liberty and of right, so congenial to the cause in which they had just fought and triumphed, they were able but to obtain the sanction of great and philosophical, though absolute sovereign, in Europe, to their liberal enlightened principles. They could obtain no more. Since then, a poli-hurricane has gone over three-fourths of the civilized portions of the earth, desolation of which, it may with confidence be expected, is passing away, leavi-

at least the American atmosphere purified and refreshed. And now, at this propitious moment, the new-born nations of this hemisphere, assembling by their representatives at the isthmus between its two continents, to settle the principles of their future international intercourse with other nations and with us, ask, in this great exigency, for our advice upon those very fundamental maxims, which we, from our cradle at first proclaimed, and partially succeeded to introduce into the code of national law.—

If it be true that the noblest treaty of peace ever mentioned in history, is that by which the Carthaginians were bound to abolish the practice of sacrificing their own children, *because it was stipulated in favor of human nature*, I cannot exaggerate to myself the unfading glory with which these United States will go forth in the memory of future ages, if, by their friendly counsel, by their moral influence, by the power of argument and persuasion alone, they can prevail upon the American Nations at Panama, to stipulate, by general agreement among themselves, and so far as any of them may be concerned, the perpetual abolition of private war upon the ocean. And, if we cannot yet flatter ourselves that this may be accomplished, as advances towards it, the establishment of the principle that the friendly flag shall cover the cargo, the curtailment of contraband war, and the proscription of fictitious paper blockades, engagements which we may reasonably hope will not prove impracticable, will, if successfully inculcated, redound proportionably to our honor, and drain the fountain of many a future sanguinary war.

The late President of the United States, in his message to Congress of the second December, 1823, while announcing the negotiation then pending with *Russia*, relating to the Northwest coast of this continent, observed, *that the occasion of the discussions to which that incident had given rise, had been taken for asserting as a principle in which the rights and interests of the United States were involved, that the American continents by the free and independent condition which they had assumed and maintained, were thenceforward not to be considered as subjects for future colonization by any European power. The principle had first been assumed in that negotiation with Russia.* It rested upon a course of reasoning equally simple and conclusive. With the exception of the existing European colonies, which it was in no wise intended to disturb, the two continents consisted of several sovereign and independent nations, whose territories covered their whole surface. By this, their independent condition, the United States enjoyed the right of commercial intercourse with every part of their possessions. To attempt the establishment of a colony in those possessions would be to usurp, to the exclusion of others, a commercial intercourse which was the common possession of all. It could not be done without encroaching upon existing rights of the United States. The government of *Russia* has never disputed these positions, nor manifested the slightest dissatisfaction at their having been taken. Most of the new American Republics have declared their entire assent to them; and they now propose, among the subjects of consultation at Panama, to take into consideration the means of making effectual the assertion of that principle, as well as the means of resisting interference from abroad with the domestic concerns of the American Governments.—

Whether the political condition of the Island of Hayti shall be brought at all into discussion at the meeting, may be a question for preliminary advisement. There are in the political constitution of Government of that People, circumstances which has hitherto forbidden the acknowledgement of them by the Government of the United States, as sovereign and independent. Additional reasons for withholding that acknowledgement, have recently been seen in their acceptance of a nominal sovereignty, by the *grant* of a foreign Prince: under conditions equivalent to the concession by them, of exclusive commercial advantages to one nation, adapted altogether to the state of colonial vassalage, and retaining little of independence, but the name. Our Plenipotentiaries will be instructed to present these views to the Assembly at Panama: and should they not be concurred in, to decline acceding to any arrangement which may be proposed upon different principles.

The condition of the islands of Cuba and Porto Rico is of deeper import, and more immediate bearing upon the present interests, and future prospect of our Union. The correspondence herewith transmitted, will show how earnestly it has engaged the attention of this Government. The invasion of those islands by the united forces of Mexico and Colombia, is avowedly among the subjects to be matured by the belligerent States at Panama. The convulsions to which, from the peculiar composition of their population, they would be liable, in the event of such an invasion, and the danger therefrom resulting of their falling ultimately into the hands of some European power, other than Spain, will not admit of our looking at the consequences to which the Congress at Panama may lead, with indifference. It is unnecessary to enlarge upon this topic: or to say more, than that all our efforts in reference to this interest, will be to preserve the existing state of things, the tranquillity of the islands, and the peace and security of their inhabitants.

I can scarcely deem it otherwise than superfluous, to observe that the assembly will be in its nature *diplomatic* and not legislative. That nothing can be transacted there, obligatory upon any one of the States to be represented at the meeting, unless with the express concurrence of its own representatives; nor even then, but subject to the ratification of its constitutional authority at home. The faith of the United States to Foreign Powers cannot otherwise be pledged. I shall, indeed, in the first instance, consider the assembly as merely *consultative*; and although the Plenipotentiaries of the United States will be empowered to receive and refer to the consideration of their government, any proposition from the other parties to the meeting, they will be authorized to conclude nothing unless subject to the definitive sanction of this Government, in all its constitutional forms. It has therefore seemed to me unnecessary to insist, that every object to be discussed at the meeting should be specified with the precision of a judicial sentence or enumerated with the exactness of a mathematical demonstration. The purpose of the meeting itself, is to deliberate upon the great and common *interests* of several new and neighboring nations. If the measure is new and without precedent, so is the situation of the parties to it. That the purposes of the meeting are somewhat indefinite, far from being an objection to it, is among the cogent reasons for its adoption. It is not the establishment of principles of intercourse with one, but with seven or eight nations at once. That, before they have had the means of exchanging ideas and communicating with one another in common, upon these topics,

they should have definitively settled and arranged them in concert, is to require that the effect should precede the cause. It is exact as a preliminary to the meeting, that for the accomplishment of which, the meeting itself is designed:

Among the inquiries which were thought entitled to consideration, before the determination was taken to accept the invitation, was that, whether the measure might not have a tendency to change the policy, hitherto invariably pursued by the United States, of avoiding all entangling alliances, and all unnecessary foreign connections.

Mindful of the advice given by the Father of our Country, in his farewell address, that the great rule of conduct for us in regard to foreign nations, is, in extending our commercial relations, to have with them as little political connexion as possible; and faithfully adhering to the spirit of that admonition, I cannot overlook the reflection, that the council of Washington, in that instance, like all the counsels of wisdom, was founded upon the circumstances in which our country and the world around us, were situated, at the time when it was given. That the reasons assigned by him for his advice, were, that Europe had a set of primary interests, which to us had none: or a very remote relation. That hence she must be engaged in frequent controversies, the causes of which were essentially foreign to our concerns. That our *detached* and *distant* situation, invited and enabled us to pursue a different course. That by our union and rapid growth, with an efficient Government, the period was not far distant, when we might defy material injury from external annoyance; when we might take such an attitude as would cause our neutrality to be respected; and, with reference to belligerent nations, might choose peace or war, as our interests, guided by justice, should counsel.

To the question which may be asked, whether this meeting, and the principles which may be adjusted and settled by it, as rules of intercourse between the American nations, may not give umbrage to the Holy League of European Powers, or offence to Spain, it is deemed a sufficient answer, that our attendance at Panama can give no just cause of umbrage or offence to either; and that the United States will stipulate nothing there which can give such cause. Here the right of inquiry into our purposes and measures must stop. The Holy League of Europe itself was formed, without inquiring of the United States, whether it would, or would not, give umbrage to them. The fear of giving umbrage to the Holy League of Europe, was urged as a motive for denying to the American nations the acknowledgment of their Independence. That it would be viewed by Spain as hostility to her, was not only urged, but directly declared by herself. The Congress and administration of that day, consulted their rights and duties, and not their fears. Fully determined to give no needless displeasure to any Foreign Power, the United States can estimate the probability of their giving it, only by the right which any foreign State could have, to take it from their measures. Neither the representation of the United States at Panama, nor any measure to which their assent may be yielded there, will give to the Holy League, or any of its members, nor to Spain, the right to take offence. For the rest, the United States must still as heretofore, take counsel from their duties, rather than their fears.

Such are the objects in which it is expected that the Plenipotentiaries of the United States, when commissioned to attend the meeting at the Isthmus, will take

part; and such are the motives and purposes, with which the invitation of the three Republics was accepted. It was, however, as the House will perceive from the correspondence, accepted only upon condition, that the nomination of Commissioners for the mission should receive the advice and consent of the Senate.

That the Congress at Panama will accomplish all, or even any of the transcendent benefits to the human race, which warmed the conceptions of its first proposer, it were, perhaps, indulging too sanguine a forecast of events to promise. It is, in its nature, a measure speculative and experimental. The blessing of Heaven may turn it to the account of human improvement. Accidents unforeseen, and mischances not to be anticipated, may baffle all its high purposes, and disappoint its fairest expectations. But the design is great, is benevolent, is humane.

It looks to the melioration of the condition of man. It is congenial with that spirit which prompted the Declaration of our Independence; which inspired the preamble of our first treaty with France; which dictated our first treaty with Prussia, and the instructions under which it was negotiated: which filled the hearts and fired the souls of the immortal founders of our revolution.

With this unrestricted exposition of the motives by which I have been governed, in this transaction, as well as of the objects to be discussed, and of the ends, if possible, to be attained by our representation at the proposed Congress, I submit the propriety of an appropriation, to the candid consideration, and enlightened patriotism, of the Legislature.

JOHN QUINCY ADAMS.

[NOTE. Mr Poinsett, in a letter to the Secretary of State, dated Mexico, August 20, 1826, encloses an account of the installation of the American Congress, at Panama, on the 22d of June, [1826] and of its sitting ten or eleven hours daily, till 15th July. The Ministers Plenipotentiaries of the Assembly were—For Colombia, Señor Gual and Señor Briseño: For Peru, Senor Tudela and Señor Biduarre: For Guatemala, Señor Larrizabel and Señor Molina: For Mexico, Don José de Mechellena and Don José Dominguez. The Ministers of the United States were not present. The order of the Confederate States, was determined by lot, that the Representatives of each should, alternately, hold the Presidency, for the direction of the discussions. Mr Salazar, in a letter to Mr Clay, thus states the result: that, on the 15th of July, were signed, at Panama—

“1st. A Treaty of Union, League, and Perpetual Confederation, between the four States represented, to which the other Powers of America might have an opportunity to accede within one year. 2dly. A Convention, for the renewal of the Great Assembly, annually, in time of common war, and, biennially, during peace. 3dly. A Convention which fixes the contingent, which each confederate should contribute, for the common defence. 4thly. An Agreement, concerning the employment and direction of those contingents; and 5thly. Divers Declarations that the Treaties which Colombia had formerly concluded with the United Mexican States, Central America, and Peru, should be included in those Treaties, with certain reservations.”

The Congress then, in consequence of the insalubrity of the climate, adjourned to meet at Tacubaya, near Mexico, where Messrs Poinsett and Sergeant repaired to attend; but the proposed meeting did not take place, and Mr Sergeant, after a short delay, returned to the United States, and Mr Poinsett to his post at Mexico.]

155. *Mr Raguet to the Brazilian Minister of Foreign Affairs. Extract.*
Brazilian Blockade.

The right to prevent the entry of Neutrals into the blockaded Ports of a Power with which they are in amity, is the result of a concession in favor of the Belligerent, but a concession only made for such a length of time as the blockading party actually maintains the blockade. To prevent the entry of a neutral, even for a moment, after the raising the blockade, would be a manifest infringement of his rights; and if the doctrine were admitted, that a notice published in a distant country, of a blockade which might by possibility be raised long before any vessel could reach the designated port, was the only one requisite, the consequences would be highly injurious to the interests of a distant nation, whose merchants would be deprived of the advantages enjoyed by those near at hand, of furnishing supplies to the party which had been, by the recurrence of peace, or other causes, relieved from the distresses of a siege. In countries which are proximate to each other, as Great Britain, France, Holland, and where the intercourse requires but the lapse of a few hours or days, the institution or the withdrawal of a blockade may be known in so short a period of time as to render the importance of the principle here advocated less manifest than it is to the nations which are relatively more distant, such as those which are located in different hemispheres. To meet this argument by contending that a vessel is bound to call for information at a neighboring port, would be substituting one measure of injustice for another. Leaving out of the question the impracticability, in many cases, especially those wherein whole coasts are blockaded, of complying with such a demand, no belligerent has a right to compel a neutral vessel to perform a circuitous route to the port of her destination; nor has he the right to impose upon her the necessity of incurring the expense of port and other charges, in his own ports or those of any other nation. So satisfied of the correctness of this principle was the Government of Great Britain, that, in the year 1804, in consequence of a remonstrance made by the American Government, against a declaration of a general blockade of "the Islands of Martinique and Guadaloupe," proclaimed by a British Naval Commander, orders were issued to him "not to consider any blockade of those Islands as existing, unless in respect of particular ports which may be actually invested, and then not to capture vessels bound to such ports, unless they shall previously have been warned not to enter them." *

The United States, maintaining the same principles, have always denied the doctrine of general and diplomatic notifications of Blockades, as binding upon their Citizens. Whenever they are made, however, they regard them as friendly offices on the part of the Government from which they proceed; because it gives their merchants an opportunity of taking into the calculation of their voyages the contingency of a *continued* effective Blockade of the Ports designated, and affords them an occasion for advancing their own particular views upon that branch of the public code which has been so flagrantly violated by some of the principal Powers of Europe. In the year 1816, the Government of the United States, having been notified by the Spanish Minister at Washington, of a declaration of the blockade of "the Ports of the Vice Royalty of Santa Fé," lost no time in protesting against

* See page 530, of this vol. or the order of the British Admiralty, of June 5, 1804.

the general terms of the same; and its Representative at Madrid was instructed to advise the Government of Spain, that "a Blockade, to be acknowledged by The United States, as valid, must be confined to particular Ports, each having a force stationed before it sufficient to intercept the entry of Vessels; and no Vessel shall be seized, even in attempting to enter a Port so blockaded, till she has been previously warned away from that Port." It was also notified that indemnity would be claimed for all captures of American Vessels not made in accordance with this rule.

It is manifestly not the interest of the new independent American States, to adopt in their practice the broadest possible construction of the laws of Blockade; for the time may come when, being at war with the powerful maritime nations of Europe, they may find it all-important to be able to show that, like The United States, they have always adhered to these maxims which have been received and acknowledged as settled principles of National Law, and have always been ready to observe those rules which, consistently with self-protection, have operated least injuriously to neutral and friendly Nations. It is for this reason that the Undersigned begs leave to invite the attention of his Excellency to the following considerations, connected with the important question referred to.

The submission of Neutrals to the laws of Blockade, as above established, is a concession granted to the Besieger, and can only be construed to extend so far as shall promote his benefit. Any act, therefore, which can be shown to inflict a positive injury upon a Neutral, without conferring a benefit on the Besieger in the furtherance of his plans, must be inadmissible upon the common principles of natural justice. Thus, if a Neutral's vessel and property are within a Port at the time of the institution of a Blockade, it would be manifestly unjust to prohibit their departure, inasmuch as by so doing extensive evils would be brought upon the Citizens of friendly Nations in their pursuit of a lawful Commerce. It is, indeed, difficult to imagine what justifiable motive could influence a Besieger to prevent a Neutral from withdrawing from the besieged place his ships and property: for, by such act, the means of escape and defence, as well as the means of prolonging the contest, would, at the same time, be withdrawn from the enemy. With respect to the right of neutral *Ships* to depart, there seems to be no difference of opinion amongst Nations; but the same does not happen in regard to their *cargoes*. In the year 1813, whilst Great Britain was at war with The United States, some of the European Powers remonstrated against the unjustifiable pretensions of her system of blockade, which embraced the chief part of the Coast of The United States; and, in an answer given to the Minister of Sweden, it was contended that, although neutral *Vessels* which had entered the American Ports without a knowledge of the Blockade, might, in conformity with the established rule, be allowed to depart, yet that this permission could not be extended to their *cargoes*. Special motives, in this particular case, on the part of Great Britain, might amply account for a measure which she might not, perhaps, willingly have approved if adopted by any other Power; and it is not to be wondered at, that a nation which already monopolized so great a share of the commerce of the world, should have pursued a system calculated to exclude from competition the capitals of other States.

The undersigned, on this occasion, renews, &c. CONDY RAGUET.

156. *Deserters. The American to the Brazilian Naval Commander. Ex.*

United States' Frigate *Macedonian*, off *Monte Video*, 21st December, 1827. Sir, I received to-day your Excellency's letter dated yesterday; and I am greatly surprised that your Excellency should be so misinformed with regard to the government of the United States.

The Treaty of 1822, between the United States and France, stipulates (Article 6.) not only that Deserters shall be mutually delivered up, but that, in case the deserters be not apprehended until after the departure of the vessel to which they belong, they may be imprisoned until an opportunity occurs to send them home; provided, however, that the imprisonment shall not continue more than 3 months. A similar stipulation is contained in the Treaty of 1788, (Article 9.) between the same nations. But, in the absence of any Treaty Stipulation, the Civil Authority within the United States delivers up deserters from Foreign vessels, whether of war or commerce. Seamen from a vessel of war are always presumed to be deserters, and the evidence of an officer suffices for their apprehension. In the case of commercial vessels, if it appears by the shipping articles that the seamen had bound themselves to perform the voyage to the United States, *and back*, they are always compelled to do so. In the United States we have seamen enough, and good enough; but even was it otherwise, Foreign seamen would not be encouraged or permitted by the Civil Authority of the United States, to violate their contract.

The only exception to what I have stated, that ever has taken place within the United States, is with regard to deserters from British ships of war; and the only cause of this exception was, that the British government resorted to impressment to man its ships of war, and frequently impressed citizens of the United States. I can very safely put it to your Excellency, whether an American seaman who had been impressed into the British service, and made his escape to the soil of his country, should be driven by the government back to the British man-of-war. In the treaty of 1794 between the United States and Great Britain, (article 27) it is stipulated, that all persons charged with murder or forgery, committed within the jurisdiction of either, who shall seek asylum in the country of the other, shall be delivered up to justice. Nothing is stipulated with regard to the delivery of deserters; and unquestionably the silence of the treaty is to be attributed to the extreme delicacy of the subject, growing out of the impressment of American seamen into the British service. Your excellency refers to an outrage upon the sovereignty of the United States, committed in 1807,* and imputes it to the doctrine of the government of the United States, of not delivering up deserters from the ships of war of other nations. The proclamation of the president of the United States, upon that occasion, is now before me; and it is there expressly stated, that the seamen in question had been previously ascertained to be native citizens of the United States. During my present cruise, I have had a correspondence with Rear Admiral Sir Robert Otway, upon the subject of deserters; and I volunteered to him the assurance, that British subjects deserting from their own ships, should never receive any countenance from me.

I have the honor to be, &c.

JAMES BIDDLE.

Admiral Rodrigo Pinto Guedes.

* The attack of the British Ship of War, *Leopard*, on the United States' Frigate *Chesapeake*.

157. *Right of Search. American to Brazilian Naval Comm'r. Ext.*

United States' Frigate *Macedonian*, off Monte Video, 25th January, 1823.

Sir, I have received your excellency's letter of the 24th instant.—

The various authorities cited by your excellency convince me that I was correct, in my letter of the 15th inst. "in stating that "the right of a belligerent cruiser to search merchant vessels, met with on the high seas, is at present indisputable, though it has, at different periods, and by several nations, been disputed, and even resisted;" and "this right is conceded, because, without it, the destination and ownership of the property could not be properly ascertained, nor whether there was contraband on board." In admitting this right to the belligerent cruiser, it does not follow that there is any obligation upon the merchant vessel voluntarily to deviate from her course, in order that the cruiser may exercise this right, nor any penalty or imputation upon her for not doing so. The doctrine of your excellency is, that, by endeavoring to avoid a cruiser, a merchant vessel thereby renders herself liable to confiscation; and I repeat, that his imperial majesty's government deceives itself, if it supposes, that the government of the United States will submit that such a doctrine be enforced against the property of its citizens.

In 1807, France decreed that every vessel, to whatever nation belonging, that should have submitted to be searched by a British cruiser, was lawful prize, and should be seized, upon entering any port of France, or her allies, or upon being met at sea by French ships of war or privateers. In consequence of this decree, it became the interest, and was the practice, of neutral vessels bound to the ports of France or her allies, to avoid all cruisers at sea. But the admiralty courts of Great Britain never set up the pretension, that a neutral vessel became liable to confiscation, by endeavoring to avoid a cruiser at sea. The doctrine asserted by Sir William Scott was, that "by the Law of Nations, as now understood, a deliberate and continued resistance to search, on the part of a neutral vessel to a lawful cruiser, is followed by the legal consequence of confiscation. Chitty's Law of Nations, Chap. V, page 193. And the same author, deducing principles from the decisions of Sir William Scott, continues as follows: "A rescue effected by the crew, after capture, when the captors are in actual possession, is considered a resistance within the application of the penalty. In the case of the *Elsabe*, it is laid down as settled, that the resistance of the convoying ships is the resistance of the whole convoy; whence, it follows, that in such cases the whole convoy is subject to confiscation. But, from the case of the *Pennsylvania*, it appears that, if a neutral vessel has been captured, and the captors, whether from want of hands to navigate her, or for the sake of making other prizes, or from any other motive, allow the neutral commanders to resume the direction of the vessel, without any express agreement binding those commanders to bring her in for adjudication, in pursuance of the original capture, then the escape of the neutral will not be regarded as a rescue or resistance. On the same principle, it was said by the Court, in the case of the *Saint Juan Baptista*, that a mere attempt to escape before any possession assumed by the captor, does not draw with it the consequences of condemnation. And the same case further establishes, that, unless the neutral vessel have reasonable grounds to be satisfied that a war has actually broken out, even a direct resistance will not superinduce the penalty; for, without a war,

there is no such thing as a neutral character, nor any foundation for the several duties which the Law of Nations imposes on that character. Nor has the penalty been deemed to attach in those instances where a disposition to resistance has at first been betrayed, but afterwards abandoned without being actually carried into operation." Chap. V. page 194.

In the trial of an American vessel, the government of the United States is a party to the question of the legality of the blockade, as well as that of His Imperial Majesty: and the decision of it, therefore, must be conformable to the established Law of Nations.

I have the honor to be, &c.

Admiral Rodrigo Pinto Guedes.

JAMES BIDDLE.

158. *Relative to a Proposal to Search American Vessels for Deserters, by a French Naval Commander at Rio de Janeiro. Extract.*

United States' Ship Cyane, Rio de Janeiro, June 11th, 1825.

Until I could learn the ultimate decision on an affair which presented, on the 5th instant, I have refrained from bringing to your notice an attempt which was on the eve of being made, in the examination of some of our merchant vessels, by Commodore Frederic du Plantys, commanding His Most Christian Majesty the King of France's Frigate *La Seine*. Some part of his crew had deserted previous to that date; and on the 5th instant, whilst some of our merchant vessels were about departing the port, he sent one of his lieutenants on board, with instructions to obtain my permission, to board and examine those vessels, with others, for his men. I directed his officer to reply that, under no circumstances whatever, could that permission be given, and trusted he possessed too great a sense of propriety, for one moment, to urge the measure; and, in the event of his doing so, I should resist every inch by force. I accordingly made the necessary preparation, and he abandoned the point.

The Hon. S. L. Southard.

J. D. ELLIOTT.

159. *Venezuela. Decree of General Morales.*

Maracaybo, Sept. 15, 1822. Art. 1. All foreigners taken or found in the ranks—in any branch of administration of the enemy—with printing presses, or acting as editors of newspapers, of works relative to the present war, to the scenes of action in rebellious America, or the Roman Catholic religion, or in any manner offensive to the nation, its government or subjects, shall suffer death, after a short military trial, and their properties forfeited to the public chest.

Art. 2. Foreigners who may be found, although not in the exercise or under the circumstances aforesaid, but having introduced themselves into the country during its occupation by the enemy, shall be doomed to serve in the public works for three years, and their properties forfeited to the national treasury.

Art. 3. Those foreigners, who have been found in this capital and its environs, who, by an effect of national forbearance, have been exempted from the fate they deserved, both as regards their persons and properties, owing to their political and religious conduct having been hitherto unknown, shall quit all Spanish territory in the precise period of eight days, with their baggage, and other property which may have been given over to them; and they are warned not to return again, under pain of death, unless it be under the conditions and circumstances prescribed for the carrying on a legitimate commerce in the ports of Venezuela.

And in order that the blockade [of the Ports and Coasts of Venezuela] as well as the present decree may be made known to all, that they may have their full effect; that they may be supported by the civil and military authorities, and that the foreigners alluded to may not again violate the former; I hereby direct that the same be proclaimed in this capital, and throughout the other provinces as soon as they become pacified; and that the present decree be printed and circulated throughout the colonies, and wherever it may be necessary. Given &c.

José Alvaro, Secretary.

F. THOMAS MORALES.

160. *Protest of Capt. Spence, U. S. Navy, against Morales' Decree.*

Sir—I have been presented with your excellency's public decree of the 15th Sept. last—a declaration of the most despotic and sanguinary nature, against all foreigners, whose love of glory, commercial pursuit, and lawful occupations, may enlist them in the service, or detain them in the territories possessed by the enemies of Spain recognized by the United States as independent governments.

A manifesto so extraordinary, so hostile to the rights of nations, so disparaging and prejudicial to the character of the era in which we live, cannot fail to excite astonishment, and to attract the attention of all who wish to preserve civilization from the encroachments of barbarism, or have rights to protect from military misrule and invasion.

As commander in chief of the royal forces, ineffectually employed in Venezuela, you are accountable to your king only for your proceeding against his subjects. But, for acts of rapacity, cruelty and oppression exercised against foreigners—for their illegal imprisonment—for their seizure and the confiscation of their property—for their degradation under the aforesaid proclamation, you are answerable to the world, because, by such acts of hostility, you wage an indiscriminate war against all governments, and, by trampling on the sacred rights of man, place at defiance nations who hold the laws and humane usages of civilized society as rules of action.

War, under the mildest aspect, is a calamity to be deplored; but when to its inseparable horrors are superadded cruelties, perpetrated without necessity, and men, pursuing peaceable avocations, are included in the most sanguinary proscriptions, without reference or respect to the nation which owes them protection, it becomes a demoniac scourge, a hydra curse, which policy and humanity are equally interested in arresting.

Against such a course of violence as you have proclaimed to the world, in behalf of my countrymen, I PROTEST, and do hereby premonish your Excellency, that to enforce the penalty, punishment and ignominy, threatened in your manifesto, against the citizens of the United States, who are at present, or who may hereafter be found by your Excellency in the Independent territories to which you refer, prosecuting their commercial concerns under the guarantee of laws and usages, which no christian soldier, fighting either for glory, his monarch, or his country, can violate with impunity. The soldier, whose sword is stained with the blood of unoffending men, superfluously shed, wins not the wreath of the warrior, but the reputation of a recreant.

The blockade declared by general Morillo, to which your Excellency alludes, exists not, neither has it, at any anterior period, been enforced in conformity to

rules prescribed by the accepted decisions of the highest authorities, rendered valid by time and general acquiescence. It therefore, has hitherto been a mere pretext for the interception of our lawful trade—for the seizure and detention of our property—for the abuse and mal-treatment of our mariners—for purposes of plunder and outrage—all of which evils it has produced.

For spoliations committed on the commerce of the United States, under the sanction of that paper interdiction, restitution will be required—and to the dignity which characterizes the government of the republic, is Spain indebted for that magnanimous forbearance from reprisal, justifiable on every principle of self-preservation and defence.

The citizens of the United States, from the peaceful and neutral course prescribed by their government, are justly entitled to the respect of the belligerent parties, and if their enterprise induces them to reap the advantages of a lawful trade within territories alternately in the occupancy of either, they are there, as citizens of a truly neutral power—a power that has at no time afforded aid, or exercised influence of any kind, in the present unhappy contest.

Between the United States and the sovereign of Spain there exists a treaty, recently made, and consecrated by the most formal observances, the acknowledged basis of which is good will and a cordial spirit of conciliation. How, then, in the face of this pledge of concord do you, sir, undertake to threaten with forfeitures and ignominious penalties—with slavery and death—the citizens of a republic, who have a right to expect, under this token of friendship, safety and exemption from molestation.

Wrongs and injuries that may accrue to citizens of the Union from your unlawful decrees, whether visited on their persons or property, will be numbered with the catalogue of outrages already sustained, and for which Spain must be answerable. Against all such wrongs and injuries I PROTEST, and do hereby solemnly call upon your Excellency to abstain from the adoption of measures fraught with most evil consequences—measures coercing a spirit of retaliation and reaction, the end and issue of which may be conceived, foreseen and prevented by your Excellency. And I invite your Excellency, as a lover of the character and honor of Spain, of the amity and good faith so happily preserved between her and the republic, to annul all such restrictions as lead to a violation of the laws of nations—as infringe the just rights of citizens of the United States—as deprive them of the benefits of peace, and tend to augment to an alarming amount the account which hereafter must inevitably be *balanced* between the two nations.

I have the honor to be, &c. ROBERT TREAT SPENCE,
 Nov. 15, 1822. Senior naval officer of the United States in the West Indies.

161. *Mr Clay to Mr Raguet. Extract.*

Difficulties of the United States' Charge d'Affaires with Brazil.

Department of State, Washington, 20th January, 1827. Sir, Your despatches, from No. 14 to 19, inclusive, have been received, and submitted to the President. He regrets the personal difficulties in which you have been placed, in respect to the exemption to which you are entitled, in virtue of your public character, from the payment of duties on objects intended for your own consumption, and in regard to the house which you had hired for your residence.

From the long residence of the President abroad, he is fully sensible, from his own experience and observation, of these personal inconveniences, and justly appreciates the feelings which their occurrence naturally excites. In the general, it is best to avoid, as much as possible, a written correspondence with the govern-

ment, where a Minister is placed, on these topics. This remark, indeed, may be applied to many of the minor public duties of a minister. It is often much easier to effect an object by a personal interview, and oral explanations, conducted with courtesy and kindness, than by an exchange of notes. The perusal of other parts of your despatches has occasioned the President the most lively regret. He sees that there has unfortunately arisen a state of relation between yourself and the Brazilian government, which may possibly affect the publick interests committed to your charge. Our commerce and navigation have, undoubtedly, during the present war respecting the Banda Oriental, been sometimes subject to aggravating perplexities, especially on the part of the Brazilian Squadrons and Cruizers. Redress for these injuries, and others of a similar character, which we may experience in the future progress of the war ought to be sought by you in a language firm and decisive, but, at the same time, temperate and respectful. No cause is ever benefitted by the manifestation of passion, or by the use of harsh and uncourteous language. If the remonstrances and reclamations which you have been called on, during your mission, to present, have not always been attended with immediate success, several of them appear to have accomplished their purpose, although the measure of redress may some times have fallen short of just expectations. It is the fate of all maritime nations, neutral in maritime wars, to find their commerce and navigation often exposed to serious vexations. The existing Brazilian war forms no exception to their general character. But the United States do not appear to be the only injured power: on the contrary, the commerce and navigation of England, France, and Spain, have all suffered; and some of them to a greater extent than ours. War is the ultimate and last resort; and much ought to be borne, before a nation, one especially whose interests, generally, are so obviously on the side of peace, as are those of the United States, should appeal to arms. If we had declared war upon the occasion of causes of complaint of no greater amount than those which we have had against the South American Belligerents, (and there is no disposition to underrate them) the United States would have enjoyed scarcely a year of repose since the establishment of their present constitution.

The degree of service which a Foreign minister is able to render his country, depends much upon the respect and deference which he observes in his intercourse with the ministers and government where he is accredited; and this is more especially, the case in governments, constituted and administered like that of the Brazils. The President makes great allowances for the feelings which you naturally entertained as a free citizen of the United States, and as a friend of liberal institutions, as well as on account of the strong character of some of those injuries sustained by our commerce and countrymen, for which it has been your official duty to demand redress. But he would have been better satisfied if you had never allowed yourself to employ, in your intercourse and correspondence with the Brazilian government, provoking or irritating expressions. These, he thinks, ought always to be avoided. The effect produced on that government by the character of your correspondence, is noticed in your Despatch No. 17; and you appear to have anticipated, as a possible consequence of it, that the Brazilian government might decline all further intercourse with you. The President hopes that such will not be the termination of your mission; and he is desirous that you should, in future, whilst you assert, with dignity, decision, and promptitude, all our rights, carefully avoid giving any just dissatisfaction in the particular which it has been my painful duty to call to your attention. I am, &c.

Condy Raguets, Chargé d'Affaires to Brazil.

H. CLAY.

APPENDIX.

162. *Hayti.—Extract from a Report laid before the British Parliament, on the Civil and Political Condition of Hayti; by Charles Mackenzie, British Consul General, at Hayti.*

Port-au-Prince, September 9, 1826.

The government that is now established at Hayti, professes to be purely republican, according to the Constitution of Dec 27, 1806, but in practice it may be said to be essentially military.

The whole island is divided into departments, arrondissements, and communes. These are all under the command of military men, subject only to the control of the president; and to them is entrusted, exclusively, the execution of all the laws, whether affecting police, agriculture, or finance. There is not, as far as I can learn, a single civilian charged with an extensive authority.

It would be a very difficult matter to give an authentic account of the present state of the finances of this country; for, although the value of the imports and exports were accurately obtained; and we know that 5-16 of the whole of the public income are derived from the duties imposed on these, which might be supposed sufficient to establish the basis of a correct calculation; yet the frauds practised in collection are so very numerous, that it would be impossible to estimate the actual receipts with even an approximation to the truth.

The receipts of 1818, the first year of Boyer's presidency, (according to the government statement), amounted to 2,646,017 dollars, 16 cents, and his expenditure to 2,144,291 dollars 99 cents. From that time until 1821, both continued to decline; in 1821, the former was augmented to 3,570,691 dollars, but the expenditure did not exceed it, being 3,461,993 dollars; and this year was the first in which any revenue was derived by the republic from Christophe's dominions, which had been annexed to it the preceding year. In 1822, in spite of the acquisition of the Spanish part of the island, the income fell 733,844 dollars, being only 2,620,012 dollars, while the expenditure was 2,728,149 dollars, exceeding the income 108,137 dollars. The following year, 1823, a small increase in income and decrease in expenditure took place; but in 1824, the last year of which I can get any account, the revenue amounted to 3,101,716 dollars, while the expenditure amounted to 3,105,115 dollars, leaving a deficit of 3,499 dollars. As far as I have been able to ascertain, the expenditure has not been lessened either during the last or the current year, though the revenue has sensibly decreased. Notwithstanding the apparent excess of income above the expenditure during several of the years intermediate between 1817 and 1824, the public chest may be considered empty, as large arrears of pay are due to the troops and to nearly all the public officers; and the amount remitted to France on account of the indemnity (about \$1,250,000) is not equal to the surplus stated to have been derived from extraordinaries since 1818.

It is further certain that trade has, for the last two years, gradually fallen off; and it is well known, as I have already stated, how much of the annual revenue is derived from the duties on imports and exports. It is supposed by some that trade has decreased nearly one-half, by others one-third. As I have no data, just now, for forming any estimate, I shall not venture on one; but this much I consider certain, that the current expenditure has been rather augmented than diminished during that period; without taking into calculation the interest on the 30,000,000 francs raised last year in France; and the provision to be made for the next four instalments of 30,000,000 each, with the annually accruing interest on the payments actually made, if effected by loan.

Latterly an attempt has been made to systematize the laws of Hayti, and three codes have been published: Code de Procedure, Code Civil, and Code Rural.

Two others are now printing, and when finished, will comprise the entire Code of the republic.

The most important of these is the Code Rural; the chief character of which is the enforcing of labor. It is in fact a modification of the old French regulations, sanctioned by the Code Noir, with additional restrictions.

The provisions are as despotic as those of any slave system that can be conceived. The laborer may almost be considered as "*adscriptus glebæ*;" he is deemed a vagabond and liable to punishment, if he ventures to move from his dwelling or farm without license; he is prohibited from keeping a shop; no person can build a house in the country, unconnected with a farm. Deviations of the law are punished by fine and imprisonment.

The Code determines the mode of managing landed property; of forming contracts for cultivation between proprietor and farmer, and farmer and laborer; of regulating grazing establishments; the rural police, or the inspection of the cultivation and cultivators; of repressing vagrancy; and of the repair and maintenance of the public roads. Lastly, it affixes the penalty of fine in some cases, and in others of indefinite imprisonment, at the option of the judge of the peace.

That cultivation would not go on, beyond that which daily necessities might require, is I think perfectly true; but it seems problematical whether the mode taken to correct the evils of sloth and inactivity be that best calculated to arrive at the object in view.

The laws have already begun to operate, and the officers commanding in the different arrondissements are said to report favorably of their progress.

But, trained as every man has been to the idleness of a Haytian military life, it will be difficult to induce them by gentle means to labor; and when the harsher provisions of the law are brought into play, it seems highly probable that they will discover, what they formerly did, that their toil produces no more profit to themselves, while it is more irksome and arduous than their previous idle mode of life; and that the benefit accrues to a new set of masters, having merely a different denomination from those who preceded them.

The amount of the population of the whole island at present, is very differently estimated by different persons. It is consequently impossible to do more than attain an approximation to the truth.

By the official statements furnished by the government, it is raised to 930,000 souls; by some it is estimated at nearly 700,000; while others assert with confidence that the entire population amounts only to 423,042 persons of all ages and classes. Of these, the best informed people calculate one tenth to be white and colored people. Of the entire population, 351,819 are in French St. Domingo, and 71,223 in Spanish St. Domingo.

It is stated that at the commencement of the revolution in Hayti, the population amounted to about 534,500 souls in the French, and about 108,500 in the Spanish part of the island, making a total of 643,000. The decrease, according to this statement, in thirty-three years, has been very nearly one-third of the whole population in 1793.

The composition of this population is perhaps the most anomalous and extraordinary that has ever existed on the Globe.

The great mass of the community consists either of ignorant men recently liberated from slavery, or their immediate descendants, equally ignorant with themselves.

The remainder is composed of some white people, chiefly Catalans or their descendants, who are to be found in the Spanish part of the island; a very few Frenchmen, having been here at the declaration of independence, have adopted Hayti as their country, and have been fortunate enough to escape the sanguinary schemes of Dessalines; and of all the various castes resulting from the intercourse of the white with the black.

The great and distinctive classes then are, in the order of their numerical importance, the blacks, the colored people or mulattoes, the European and Creole whites; of these the white are the best informed and best educated; next in the scale of improvement stand the mulattoes, and last of all the negroes.

The two first of these great classes are again divided into as many subdivisions as there are slave establishments in the West Indies or America, and shades of complexion as can be produced by the intercourse of the European with the African. This arises from the 44th article of the constitution, by which every black, Indian, or their descendants, may become citizens of Hayti after 12 months' residence in the state. There is thus, independently of the native, a considerable foreign population, composed of most discordant elements,—English, American, Spanish, French, Danish, Dutch and Swedish; each having brought with it all the prejudices of the country to which it belonged, and having only one common point of sympathy with their adopted brethren.

One of the results of the lead taken by the coloured part of the population is, that, although small properties are in the hands of individuals belonging to all classes, a very large proportion of the great landed estates is in the hands of coloured proprietors. To this end one of the regulations introduced at the commencement of the Revolution very essentially contributed: I mean that which transferred the property of the old French colonists to their coloured children, whether legitimate or illegitimate.

From these causes, very few of the large estates are in the possession of blacks, except perhaps in the northern part of the Island, formerly subject to Christophe, who bestowed properties indiscriminately on all, without reference to complexion, who could bring forward the quantity of produce which he fixed as the return which ought to be made.

The form of government, as well as the constitution of society in Hayti, render the country in no slight degree liable to civil convulsions.

In addition to these circumstances, there are other co-existent and actively operating causes that tend very essentially to lessen confidence in any form of government that may be established in Hayti. Among these may be ranked, 1st, the absence of any well-defined ecclesiastical establishment, and 2d, the want of good education.

It is true that the Roman Catholic religion is declared by the Constitution of 1806 to be that of the State, but the difficulty of obtaining a national priesthood is the only reasonable defence that can be offered for the neglect of this most important topic by the Haytian government.

The immediate consequence of the above difficulty is to limit the number of the clergy, which consists generally of Spanish or Spanish-American priests, who are entirely dependent for subsistence on the government. They consist of, 1 Archbishop, 4 Vicars-general, 31 parish priests, besides the Chapter of the Cathedral of Santo Domingo, which does not exceed 6 canons.

The government having appropriated all the church property to its own use, the clergy rely wholly on their fees, two-thirds of which they are obliged to pay into the Treasury, retaining only one-third for their own support. This naturally calls forth hostile feelings, most particularly so in the Spanish part of the Island.

There being no national clergy, and no inducement to respectable foreign priests to establish themselves in Hayti, the country parishes are very ill supplied with pastors. I have been told of one priest who has the charge of 14 parishes in the south.

It will not be deemed extraordinary, after the preceding account of the condition of the Haytian church, that education should be at a very low ebb; it is in point of fact almost entirely neglected.

There is indeed a military school, called the Lycée, formed on the model of the establishment of the same name at Paris, with all the apparatus of Director-general and professors, which has been founded for several years, but the number of pupils is exceedingly limited, not exceeding 40.

Some schools on Lancaster's plan, as well as three private schools, one for girls and two for boys, have also been established in this Capital, but even in these the number of pupils is very small.

There is, besides these schools, what is called an university in the city of Santo Domingo, of which, however, I can give no other account than that it is said to have seven professors, to teach ethics, canon law, civil law, philosophy, medicine, latin, and drawing.

Attempts have been made to establish Lancasterian schools in different parts of the Republic, but I am informed that they have almost completely failed. In some of the principal towns the schools do exist, but in most of the country places it has been found necessary to abandon them.

In the deplorable absence of religious instruction and of education, it is not a subject of surprise that morality should be in its lowest stage in Hayti.

The firmest foundation of society, marriage, is scarcely thought of, and all the ties consequent on it have not even the shadow of existence.

In July, 1825, Baron Mackau arrived here with the Ordonnance of the King of France of the 17th April, 1825, recognizing the Independence of this country upon two conditions: viz. that the ports of Hayti should be open to all nations, by all of which equal duties on importation and exportation should be paid, with the exception of the French, in favor of whom a reduction of one half should take place; and the payment, in five annual instalments, of 150,000,000 of francs, by the present inhabitants of the French part of the Island, to commence from the 31st December, 1825.

The Ordonnance was accepted by the Senate on the 11th July.

The President then appointed three commissioners to accompany Baron Mackau on his return to France, for the purpose of negotiating a treaty with the French Government on the basis contained in the Ordonnance, and also to raise a loan for the payment of the first instalment. They sailed from this on the 20th July, and a Convention was concluded at Paris on the 31st October following.

On the return of the Commissioners to Hayti, the President refused to ratify the Treaty; and, on the 26th June, 1826, two Commissioners sailed from this for France, for the purpose of effecting a final arrangement with the French Government.

In considering the recent and present state of Hayti, it appears to me two very different sets of conclusions may be deduced—the first favourable, the second unfavourable, to Hayti. It is true that 22 years have elapsed since the Haytians, by a public act, first declared their independence, and then determined to withdraw all allegiance from the mother country; that after various struggles, one, instead of five distinct Governments, has been established, and this one possesses all the external characters of organization; that the whole Island is in military possession of the present authorities; that the country is peculiarly favorable for defence against European troops; that the abolition of the slave trade is a fundamental law of the State; and lastly, that its Independence has been formally recognized by the parent State.

On the other hand, it will be seen, that the very constitution of society in Hayti is ill assorted; that jealousies and disunion prevail among its component parts; that there is no fixed principle of action founded on religion and education; that the expenditure has increased, while the population, industry and revenue, have fallen off; and that the army and police, on which the Government depend, are ill calculated to repress disorder.

The Rt. Hon. Geo. Canning.

CHARLES MACKENZIE.

163. *Importation and Ingress of Persons of Colour.*

Opinion of Mr Wirt, Attorney-General. Office of the Attorney-General of the U.S. May 8, 1824.

Sir, The third section of the Legislative Act of South-Carolina, entitled, "An Act for the better regulation and government of free negroes and persons of colour, and for other purposes," which you submit for my opinion, is in the following words:

"And be it further enacted by the authority aforesaid, That if any Vessel shall come into any Port or Harbour of this State, from any other State or Foreign Port, having on board any free negroes or persons of colour, as cook, stewards, mariners, or in any other employment on board said Vessel, such free negroes or persons of colour shall be liable to be seized and confined in gaol until said Vessel shall clear out and depart from this State; and that when said Vessel is ready to sail the Captain of said Vessel shall be bound to carry away the said free negro

or person of colour, and pay the expences of his detention; and in case of his neglect or refusal so to do, he shall be liable to be indicted, and on conviction thereof, shall be fined in a sum not less than 1000 dollars, and imprisoned not less than two months; and such free negroes or persons of colour, shall be deemed and taken as absolute slaves, and sold in conformity to the provisions of the Act passed on the 20th day of December, 1820, aforesaid."

The question which you propound for my opinion on this section, is, "whether it is compatible with the rights of Nations in amity with The United States, or with the National Constitution."

By the National Constitution, the power of regulating commerce with Foreign Nations, and among the States, is given to Congress; and this power is from its nature, exclusive. This power of regulating commerce is the power of prescribing the terms on which the intercourse between Foreign Nations and The United States, and between the several States of the Union, shall be carried on. Congress has exercised this power; and among these terms there is no requisition that the Vessels which are permitted to enter the Ports of the several States shall be navigated wholly by white men. All Foreign and Domestic Vessels, complying with the requisitions prescribed by Congress, have a right to enter any Port of The United States, and a right to remain there unmolested in vessel and crew for the peaceful purposes of commerce. No State can interdict a Vessel which is about to enter her Ports, in conformity with the Laws of The United States, nor impose any restraint or embarrassment on such Vessel, in consequence of her having entered in conformity with those Laws.—For the regulation of Congress on this subject being both supreme and exclusive, no State can add to them, vary them, obstruct them, or touch the subject in any shape whatever, without the concurrence and the sanction of Congress. By the regulations of Congress, Vessels navigated by black, or coloured men, may enter any Port of the Union for the purposes of commerce, without any molestation or restraint in consequence of having so entered; but the Section of the Law of South-Carolina which we are considering, declares, that if any Vessel shall enter one of her Ports, navigated in whole, or in part, by negroes or persons of colour, the crew, so far as they are negroes or persons of colour, shall be immediately seized and imprisoned at the expense of the captain, with various other contingent and severe penalties both on the captain and his imprisoned crew. Here is a regulation of commerce, of a highly penal character, by a State, superadding new restrictions to those which have been imposed by Congress; and declaring, in effect, that what Congress has ordained may be freely and safely done, shall not be done but under heavy penalties. It seem very clear to me, that this section of the law of South-Carolina is incompatible with the National Constitution, and the Laws passed under it, and is therefore void. All nations in amity with the United States, have a right to enter the ports of the union, for the purpose of commerce, so long as by the laws of the union, commerce is permitted, and so far as it is permitted; and inasmuch as this section of the law of South Carolina is a restriction upon this commerce, it is incompatible with the rights of all nations, which are in amity with the United States.

There is another view of this subject. By the national constitution, the power of making treaties with foreign nations is given to the general government, and the same constitution declares that the treaties so made shall constitute a part of the supreme law of the land. The national government has exercised this power also, of making treaties. We have treaties subsisting with various nations, by which the commerce of such nations with the United States, is expressly authorized, without any restriction as to the colour of the crews, by which it shall be carried on. We have such a treaty with Great Britain, as to which nation this question has arisen. This act of South Carolina forbids, or what is the same thing, punishes what this treaty authorizes.

I am of opinion, that the section of the law under consideration, is void, for being against the constitution, treaties, and laws of the United States, and incompatible with the rights of all nations, in amity with the United States.

I have the honor to be, &c.

The Hon. John Quincy Adams.

WILLIAM WIRT.

164. *Proposition for Mutual Surrender of Fugitive Slaves and Deserters.*

In Mr Clay's instructions to Mr Gallatin on this proposition of the 19th June, 1826, he says—

If it be urged that Great Britain would make, in agreeing to the proposed stipulation, a concession without an *equivalent*, there being no corresponding class of persons in her North American Continental Dominions, you will reply :

1st. That there is a similar class in the British West Indies, and although the instances are not numerous, some have occurred, of their escape, or being brought, contrary to law, into the United States.

2dly. That Great Britain would probably obtain an advantage over us, in the reciprocal restoration of military and maritime deserters, which would compensate any that we might secure over her in the practical operation of an article for the mutual delivery of fugitives from labor.*

165. *Mr Barbour to Mr Clay. Extract.*

London, 2d. October, 1828. In this conference, I opened the subject of slaves taking refuge in the British North American Possessions, by representing that our conterminous Possessions had been attended with the usual border inconveniences, alluding to the cases of refugees from justice, deserters and persons held to service; in other words, runaway slaves. When I mentioned the border inconveniences, he instantly, before I explained my object, and with apparent interest, spoke of our difficulties in the north-east. I at once undeceived him, by stating that I had received no communication from my Government on that head, (owing I suppose, to the delays of navigation,) and proceeded to state what I had in view. I endeavored to impress on him the importance of the subject, stating that one member of the confederacy, and the House of Representatives of the United States, had urged upon the Executive the necessity of making some arrangement, by which facilities should be given to the losers of slaves, in regaining them. That the mischief was by no means, confined to the number that escaped, but acted on, and much impaired, the value of those who remained; the successful attempts at elopement constituting a strong allurements with all to abscond. Lord Aberdeen remarked, that similar complaints had been preferred by other Powers having West India Possessions: that, whilst he would be happy to grant the most substantial remedy, yet, in the present state of public feeling on this subject, which, he said, might properly be called a mania, the application of the remedy was an affair of some delicacy and difficulty: that the law of Parliament gave freedom to every slave who effected his landing on British ground. I remarked to his lordship, that he was laboring, I thought, under a mistake; as this was the result of a judicial decision, rather than of parliamentary enactment. He insisted that there was a statutory provision to the effect spoken of; but added, that Sir George Murray, the head of the Colonial Department, intended to bring the subject before Parliament, when he hoped the evil complained of would be obviated, as he could not conceive that any people would wish to see their numbers increased by such subjects.

JAMES BARBOUR.

166. *Proclamation of the King of the Sandwich Islands, respecting the Treatment of Foreigners within his Territories.*

Oahu, 7th October, 1829. These are the names of the King of the Islands, and the Chiefs in Council :—

Kauikcaouli, the King,
Kaahumanu.

Gov. Boki,
Gov. Adams Kuakini,

Manuia, Kekuanaoa, Hinan, Aikanaka, Paki, Kinau, John II, James Kahuhu.

This is my decision for you: we assent to the request of the English residents; we grant the protection of the laws; that is the sum of your petition.

* For suggestions for the preparation of an article, (on the mutual surrender of deserters from the military, naval, and merchant service, persons naturalized to be excepted,) the secretary refers to article VI. of the convention between the United States and France, of June 24, 1822. See pages 123, and 129, in Vol. I. of this work.

This, therefore, is my Proclamation, which I make known to you all, people from foreign countries:—The laws of my country prohibit murder, theft, adultery, fornication, retailing ardent spirits at houses for selling spirits, amusements on the sabbath day, gambling and betting on the sabbath day, and at all times.

If any man shall transgress any of these laws, he is liable to the penalty,—the same for every foreigner and for the people of these islands: whoever shall violate these laws shall be punished.

This also I make known:—The law of the Great God of Heaven, that is, the great thing by which we shall promote peace; let all men who remain here obey it.

Christian Marriage is proper for men and women; but if a woman regard her man as her only husband, and the man regard his woman as his only wife, they are legally husband and wife; but if the parties are not married, nor regard themselves as husband and wife, let them be forthwith entirely separate.

II. This is also our decision, which I now declare to you. We have seen your wickedness heretofore. You did not warn us that your door yards and enclosed plantations were tabu before the time when our animals went into your enclosures; you unhesitatingly killed our animals. But we warned you of the tabu of our plantations, before the time when the animals came into them, even yours, and when it was told again, to you that have cattle; but for some days past we have known your cattle to come in to eat up what we had planted; on that account some of your cattle are dead.

This then is the way to obtain justice; if you judge the man guilty, you are not forthwith to punish him; wait till we have a consultation first: then, had we judged him guilty, we would have given you damages; but no, you rashly and suddenly injured the man; that is one of the crimes of two of you. And we state to you all, that the wounding of a beast is by no means equal to the wounding of a man, inasmuch as man is lord over all the beasts.

This is our communication to you all, ye parents from the countries whence originate the winds; have compassion on a nation of little children, very small and young, who are yet in mental darkness; and help us to do right and follow with us, that which will be for the best good of this our country.

III. As to the recent death of the cow, she died for breaking a tabu, for the protection of the plantation. The place was defended also by a fence, built by the owner of the plantation. Having secured his field by a fence, what remained to be done was the duty of the owners of cattle, who were told by him who had charge of the plantation, to bring home their cattle at evening; he did tell them so, but they did not regard it, and in the night they came in, but not by day. On that account the owner of the plantation hoped to recover damage; for many were the cattle that were taken up before, but no damage was recovered for the crop they had devoured; the owners plead them off without paying damage; therefore, he to whom belonged the crop, determined that one of the cattle should die, for destroying the crop; for it had been said that if any of the cattle should come into the enclosure devouring the crop, such cattle would be forfeited and become the property of the owner of the crop. Many have been seized, but they were begged off, and given up again; this has been done many times. Why then are you so quick to be angry? For within the enclosure was the place where the cow was wounded, after which she made her way out. What then means your declaration that the cow was wantonly shot in the common? The cow would not have been killed for simply grazing in the common pasture; her feeding upon the cultivated crop was well known by those who had the care of the plantation.

KAUIKEAOULI.

167. *The Secretary of the U. S. Navy to the King of the Sandwich Islands.*

Washington City, 20th January, 1829. By the approbation and direction of the President of the United States, I address you this letter, and send it by the hands of Captain William Bolton Finch, an officer in our navy commanding the ship of war *Vincennes*.

Captain Finch also bears to you, from the president, certain small tokens of regard, for yourself and the chiefs who are near to you, and is commanded to

express to you in his name, the anxious desire which he feels for your advancement in prosperity and in the arts of civilized life, and for the cultivation of harmony and good-will between your nation and the people of the United States. He has heard with admiration and interest of the rapid progress which has been made, by your people in acquiring a knowledge of letters and of the true religion—the religion of the Christian's Bible. These are the best and the only means, by which the prosperity and happiness of nations can be advanced and continued, and the president and all men every where, who wish well to yourself and your people, earnestly hope that you will continue to cultivate them, and to protect and encourage those by whom they are brought to you.

The president also anxiously hopes that peace, and kindness and justice, will prevail between your people and those citizens of the United States who visit your islands, and that the regulations of your government will be such as to enforce them upon all.

Our citizens who violate your laws, or interfere with your regulations, violate at the same time their duty to their own government and country, and merit censure and punishment. We have heard with pain that this has sometimes been the case, and we have sought to know and to punish those who are guilty. Captain Finch is commanded diligently to enquire into the conduct of our citizens, whom he may find at the islands, and, as far as he has the authority, to ensure proper conduct and deportment from them.

The president hopes, however, that there are very few who so act as to deserve censure or punishment, and for all others he solicits the kindness and protection of your government, that their interests may be promoted, and every facility given to them in the transaction of their business. Among others he bespeaks your favor to those who have taken up their residence with you to promote the cause of religion and learning in your islands. He does not doubt that their motives are pure and their objects most friendly to the happiness of your people, and that they will so conduct themselves as to merit the protecting kindness of your government. One of their number, the Rev. Charles S. Stewart, who resided for a long time with you, has received the favor of his government, in an appointment to an office of religion in our navy, and will visit you in company with Captain Finch.

The president salutes you with respect, and wishes you peace, happiness and prosperity.

SAMUEL L. SOUTHARD.

To Tamehameha III., King of the Sandwich Islands.

DECLARATIONS OF INDEPENDENCE OF THE NEW NATIONS OF SOUTH AMERICA AND MEXICO.

168. *Venezuela.*

In the Name of the Most High:

We, the representatives of the federal provinces of Caracas, Cumana, Barinas, Margarita, Barcelona, Merida, and Truxillio constituting the confederation of Venezuela, on the southern continent of America, in Congress assembled; considering, that we have been in the full and entire possession of our natural rights since the 19th of April, 1810, which we reassumed in consequence of the transactions at Bayonne, the abdication of the Spanish throne, by the conquest of Spain, and the accession of a new dynasty, established without our consent. While we avail ourselves of the rights of men, which have been withheld from us by force for more than three centuries, and to which we are restored by the political revolutions in human affairs, we think it becoming to state to the world the reasons by which we are called to the free exercise of the sovereign authority.

We deem it unnecessary to insist upon the unquestionable right which every conquered country holds to restore itself to liberty and independence; we pass over in a general silence, the long series of afflictions, oppressions, and privations, which the fatal law of conquest has indiscriminately involved the discoverers, conquerors; and settlers of these countries; whose condition has been made wretched

by the very means which should have promoted their felicity: throwing a veil over three centuries of Spanish dominion in America, we shall confine ourselves to the narration of recent and well known facts, which prove how much we have been afflicted; and that we should not be involved in the commotions, disorders, and conquests, which have divided Spain.

The disorders of Europe had increased the evils under which we before suffered; by obstructing complaints and frustrating the means of redress: by authorising the governors placed over us by Spain, to insult and oppress us with impunity, leaving us without the protection or the support of the laws.

It is contrary to the order of nature, impracticable in relation to the government of Spain, and has been more afflicting to America, that territories so much more extensive; and a population incomparably more numerous, should be subjected and dependent on a peninsular corner of the European continent.

The cession and abdication made at Bayonne, the transactions at the Escorial and at Aranjuez; and the orders issued by the imperial lieutenant the marshal duke of Berg to America, authorized the exercise of those rights, which till that period the Americans had sacrificed to the preservation and integrity of the Spanish nation.

The people of Venezuela, were the first who generally acknowledged, and who preferred that integrity, never forsaking the interests of their European brethren while there remained the least prospect of salvation.

America has acquired a new existence; she was able and was bound to take charge of her own safety and prosperity; she was at liberty to acknowledge or to reject the authority of a king who was so little deserving of that power as to regard his personal safety more than that of the nation over which he had been placed.

As our glory consists in establishing principles consistent with human happiness, and not erecting a partial felicity on the misfortunes of our fellow mortals, we hereby proclaim and declare, that we shall regard as friends and companions in our destiny, and participators of our happiness, all those, who united by the relations of blood, language, and religion, have suffered oppression under the ancient establishments and who shall assert their independence thereof, and of any foreign power whatsoever, engaging that all who shall co-operate with us shall partake in life, fortune, and opinion, declaring and recognizing not only these, but those of every nation, in war enemies; in peace, friends, brethren and fellow citizens.

In consideration therefore, of the solid, public and incontestible motives, which force upon us the necessity of re-assuming our natural rights, thus restored to us by the revolution of human affairs, and in virtue of the imprescriptible rights of every people, to dissolve every agreement, convention or social compact, which doth establish the purposes for which alone all governments are instituted, we are convinced that we cannot and ought not any longer to endure the chains to which we were connected with the government of Spain, and we do declare, like every other independent people, that we are free and determined to hold no dependence on any potentate, power, or government, than we ourselves establish; and that we now take among the sovereign nations of the earth the rank which the Supreme Being and Nature have assigned to us, and to which we have been called by the succession of human events and by a regard for our own happiness.

Although we foresee the difficulties which may attend our new situation, and the obligations which we contract by the rank which we are about to occupy in the political order of the world; and above all, the powerful influence of ancient forms and habits by which (to our regret) we have hitherto affected—yet we also know, that a shameful submission to them, when it is in our power to shake them off, would prove more ignominious to ourselves, and more fatal to posterity, than our long and painful servitude. It therefore becomes our indispensable duty to provide for our security, liberty, and happiness, by an entire and essential subversion and reform of our ancient establishment.

Wherefore, believing, for all these reasons, that we have complied with the respect which we owe to the opinions of mankind, and to the dignity of other nations, with whom we are about to rank, and of whose friendly intercourse we assure ourselves:

We, the representatives of the confederated provinces of Venezuela, invoking the Most High, to witness the justice of our cause, and the rectitude of our intentions, imploring his divine assistance to ratify, at the epoch of our political birth, the dignity to which his Providence has restored us, the ardent desire to live and die free, and in the belief, and the defence of the holy Catholic and apostolic religion of Jesus Christ, as the first of our duties—

We, therefore, in the name, by the will and under the authority which we hold for the virtuous inhabitants of Venezuela; do solemnly declare to the world, that these united provinces are and ought to be, from this day forth, in fact, and of right *free, sovereign and independent States*—that they are absolved from all allegiance to the crown of Spain, and of those who now call, or may hereafter call, themselves as representatives or agents; and that as free, sovereign and independent States, we hold full power to adopt whatever form of government may be deemed suitable to the general will of its inhabitants; to declare war, make peace, form alliances, make commercial alliances, establish commercial treaties, define boundaries and regulate navigation; and to propose and execute all other acts, usually made and executed by free and independent nations: and for the due fulfilment, validity, and stability of this, our solemn declaration, we mutually and reciprocally pledge and bind the provinces to each other, our lives, fortunes, and the honor of the nation.

Done at the Federal Palace of the Caracas, signed with our hands, and sealed with the Great Seal of the provincial Confederation, and countersigned by the Secretary to the Congress assembled, on the 5th day of July, in the year 1811, and in the first of our independence.

J. ANT. RODRIGUEZ, rep. and president of Obispos, in province of Barinas.
LUIS IGNACIA MENDO, representative, Vice-President of Nutrias, in province of Barinas.

Signed, by the Representatives assembled, of the provinces of Caracas, Cumana, Barcelona, Barinas, Magurita, Merida, Truxillo, and Villa of Argua and province of Barcelona.

A true copy, (i. s.)

FRANCISCO IZNARDI, Secretary.

1C9. *Buenos Ayres.*

St. del Tucuman, July 9, 1816.

The congress of the United Provinces resumed its discussions, on the great and august subject of the independence of the people which compose them. The voice of the whole territory was universally constant and decisive for solemn emancipation from the despotic power of the king of Spain. Notwithstanding that their representatives devoted to so arduous a task all the energy of their talents, the uprightness of their intentions, and the interest which the sanction of their fate require from the representatives of the people and their posterity; and at the closing of their sessions, they were asked if they wished that the provinces of the union might be a free nation, and independent of the kings of Spain and their metropolis, they immediately cried out, full of the holy ardor of justice, and one after another repeated, successively, their unanimous and spontaneous decision for the *independence* of the country, in virtue of which they decreed the following Declaration:

We, the representatives of the United Provinces of South America, in general congress assembled, invoking that Eternal Power who presides over the universe, in the name and by the authority of the people whom we represent, protesting to Heaven, to all nations, and to all men, the justice which rules our decisions, solemnly declare, in the face of the whole world, that it is the unanimous and unquestionable will of these provinces to break the burdensome chains which unite them to the king of Spain, to resume the rights of which they have been dispossessed, and invest themselves with the high character of a free nation, and independent of king Ferdinand the seventh, his successors, and metropolis; to remain consequently, in truth of right, with an ample and full power to give to themselves the form of government which justice dictates, and the increase of their actual circumstances demand; thus, all and each of them, publish, declare, and confirm, obliging themselves, through us, to the fulfilment and maintenance of this their will, pledging, as security and guarantee, their lives, fortunes, and honors.

The present Declaration shall be communicated to all whom it may concern, for its publication; and in virtue of the respect due to all nations, let them explain by a manifesto the great motives which have given place to this solemn Declaration.

Passed in the Hall of Sessions—signed with our hands, and sealed with the seal of Congress, and certified by our Secretary.

[Here follow the names of the deputies of the different States and Provinces.]

170. *Chili.*

Force has been the supreme reason, which, during upwards of three hundred years, has maintained the new world under the necessity of reverencing, as a dogma, the usurpation of its rights and seeking therein the origin of its most important duties. It was evident that a day would come, when this enforced submission would cease; but in the mean time it was impossible to anticipate it: the resistance of the inferior against the superior, stamps with a sacrilegious character, his pretensions and serves only to discredit the justice, upon which they are founded. For the 19th century was reserved the spectacle of hearing innocent America claim her rights, and show, that the period of her sufferings could continue no longer than that of her debility. The revolution of the 18th September of 1810, was the first effort Chili made towards accomplishing these high destinies, to which she was called by time and nature. Her inhabitants have given since proofs of the energy and firmness of her will, scorning all the vicissitudes of war.

But the actual circumstances of the war, not permitting the convocation of a national Congress to sanction the public votes, we have ordered that a register should be opened, in which all the citizens of the state might declare for themselves, free and spontaneously, their votes for the urgent necessity of the government proclaiming immediately the independence or for delaying it, or for the negative; and having found, that the generality of the citizens have irrevocably decided by the affirmative this proposition, we have thought proper, in the exercise of the extraordinary power, with which we have been vested by the people for this particular case, to declare solemnly in their names, in the presence of the Almighty, to make known to the great confederation of mankind, that the continental territory of Chili and her adjacent islands form, in fact and right, a free, independent and sovereign state, and are forever separated from the monarchy of Spain, and fully qualified to adopt the form of government most convenient to their interest.

Given at the Directorial Palace of Concepcion on the 1st January, 1818, signed with my hand and countersigned by our ministers and secretaries of state for the department of state, treasury and war.

BERNARDO O'HIGGINS.

Miguel Zanartu, Hipolito De Villegas, Jose Ignacio Zenteno.

171. *Peru.*

In the royal city of Lima, 15th July, 1821. The señors, who compose it, having yesterday assembled in the most excellent Senate with the most excellent and most illustrious Señor, the archbishop of this holy Metropolitan church, the prelates of the religious convents, titulars of Castile and various neighbours of this capital, for the purpose of fulfilling, what had been provided in the official letter of the most excellent Señor, the general in chief of the liberator army of Peru, D. José de San Martín, the contents of which were read; and persuaded of the soundness of the same containing what persons of known probity, learning and patriotism, who inhabit this capital, would express the general opinion for independence had been resolved on, which vote will serve as a guide to the said General proceeding to take the oath: all the Señors agreeing for themselves and satisfied of the opinion of the inhabitants of the capital, said, that the general will was decided for the independence of Peru, of the Spanish dominion and of any foreign dominion whatever, and that they would proceed to sanction the same by means of a solemn oath.

172. *Mexico. Extract.*

After the long night of three ages, in which America has lain plunged in darkness, the aurora of her felicity at last burst forth; that day dawned for which she has sighed and which she desires may be perpetual: This consummation would never have been obtained, if it had not been founded in justice, nor if justice herself were not to be the base of the government which is to consolidate it. But the junta has the satisfaction to announce that both considerations are combined in the emancipation which we have accomplished.

Nature has marked out the territories of nations by rivers, mountains and other boundaries, which establish their limits. How many states are divided by the Po and the Rhine, as the Alps and the Pyrenees divides France from Italy and from Spain. From this last, immense seas and a vast distance divide America; distances which not only make them different as kingdoms, but establish them as belonging to two different worlds. Policy must necessarily conform to the order of nature, and as it would be monstrous to put in the same space the contrary elements of fire and water, it is equally so to unite in one province, people who are distinct and distant; especially if that difference and distance, extend to the extremity of the two worlds, since then it embraces all the contraries which climate can originate. The two vast globes, and opposite movements, cannot revolve without embarrassment upon one axis, but each requires its own; in the same manner, two empires of distinct and opposite qualities require two governments, without being susceptible of being united in one, which is never sufficient to govern both well.

If occasionally, the order of nature is violated, in departing from the boundaries she fixes, it must happen as with fire inclosed in the mines, that an explosion will finally take place. The two Spains, Old and New, or, which is the same thing, Castile and Mexico, which have hitherto borne those names, belong to distinct regions of the earth, to different portions of the globe, to opposite zones of the sphere; differences which at once evince the justice of their separation. If they have been united, as Esau and Jacob in the womb of Rebecca, and have long remained so; this alone, giving to the latter her growth, has rendered it necessary that they should separate, as these twins did, first in the maternal bosom, and afterwards in their descendants. This idea is further enforced by illustrations drawn from animal nature, wherein the offspring, when capable of providing for itself, leaves its dam, the young bird its nest; and New Spain having arrived at the vigor of manhood, is bound by all analogy, it is said, to separate and shift for itself. This it is which justifies the independence of America. She has burst her chains, in order to acquire liberty, and to withdraw herself from the yoke which embarrassed her prosperity, by limiting her labour, her industry, her commerce, by the sole interest or pleasure of the mother country.

[It is then generally stated, that until a meeting of the cortex, the laws and constitution of Spain, as far as they are applicable, will be the law of the land. The Declaration concludes with a general expression of the desire of the Mexicans to cultivate amicable relations with all other nations—reserving, however, their choicest favor and highest privileges to the Spanish nation, from which they sprung.] Signed at Mexico, October 13, 1821.

ANTONIO, bishop of Puebla, as President.

173. *Brazil.*

This kingdom, since it acknowledged me their perpetual defender, required of me, immediately, to adopt the most energetic measures for the preservation of their honor and prosperity.

Had I hesitated in my determination, I would at once have violated my sacred promise, on the one hand; and, on the other, would have given rise to all the evils of anarchy, the dismemberment of the provinces, and all the fury of a democracy. What wrestling would there not have been amidst such sanguinary parties, between a thousand successive and opposing factions? Who would have retained possession of the gold and diamonds of her mines?—of those formidable rivers which are

the strength of our state!—of that astonishing fertility, the inexhaustible fund of so much riches and prosperity! Who could have appeased, allayed the fury of so many conflicting parties!—who could have civilized our distant provinces, divided by so many rivers? Who would have penetrated into the wildness of the interminable forests, to offer aid to our poor deserted Indian!—who could have ascended their lofty and inaccessible mountains? Most assuredly, Brazilians: Brazil would have been ruined, this precious jewel of all beautiful nature, which is at once the envy and admiration of the whole world.

I should have been answerable for all these evils—for all the blood shed—for the unfortunate victims which, unquestionably, would have been sacrificed to the particular views and interests of such contending factions, had I not adopted the measures so earnestly solicited by the people: I, therefore, immediately directed that an assembly of Brazilians should be called for the cement of the political independence of this kingdom, at the same time not intending to break the bonds of the Portuguese fraternity; to tranquilize, on principles of justice, the united kingdoms of Portugal, Brazil and Algarves, and to preserve, under the same chief, two families, separated by a wide ocean, who can only live united by the equality of rights, and the reciprocation of their interests.

Brazilians! it is not necessary for you to recollect all the evils to which you were subject, or what induced you to make the representation transmitted to me by the chamber of representatives and the people, on the 23d of May, and which gave rise to my royal decree of the 3d of June, of the present year; but a deference for the opinions of mankind requires us to declare the reasons which dictated this course—the history of the acts of the congress of Lisbon, with regard to Brazil, is a history of continual injustice and deceit—all having in direct object to destroy the prosperity of Brazil, and so effectually to paralyze all its energies, as to make it entirely dependent on the mother country; that the world may have been witness to the justice of our cause, we appeal to the following facts:

The congress of Lisbon gave laws to Brazil without waiting for its representation, thus destroying the sovereignty of the majesty of the nation.

They denied us a delegation of executive power, so necessary to the proper development of our physical means. Knowing, at the same time, the great distance which separated us, leaving us without laws appropriate to our climate, our wants, and our local situation:

They gave us a government without stability, and without unity, formed in insubordination, rivalry and contradictions—thus depriving us of the rank which she enjoys, and weakening the foundation of our future grandeur and prosperity, and driving us into all the horrors of anarchy and confusion:

They excluded the Brazilians from all participation in the emoluments arising from offices of honor or profit, and filled your cities with European bayonets, commanded by cruel, rapacious and foreign chiefs:

They received with enthusiasm, and loaded with benefits, all those monsters who attempted to destroy the best affections of the heart, and who triumphed in the idea of extinguishing the last ray of hope among the people:

They cast *usurping hands* upon the resources of the bank of Brazil, overloaded with an enormous national debt, which the congress never used; at a time when the credit of the bank was united with the public credit of Brazil, and with its own prosperity:

They negotiated with foreign nations the alienation of portions of your territory, to weaken and enslave you:

They disarmed your fortresses, stripped your navy yards, left in a defenceless state your harbors, calling to Portugal all your navy—they exhausted your treasures with repeated demands to support the troops which came without your permission to shed your blood; and, at the same time, they prohibited the introduction of arms and ammunition with which you could arm yourselves and support your liberty:

They showed a project of commercial relations, which, under the false appearance of imaginary reciprocity and equality, monopolized your riches, and offered your ports to foreigners; thus destroying your agriculture and industry, and again reducing the inhabitants of Brazil to the state of fatherless and unsettled planters:

They have treated, from the beginning, with contempt and scorn, the representatives of Brazil, when they had the valor to proclaim their right; and even (but who can dare mention it!) threatened you with setting free all the slaves, that they might rise in opposition against their own masters:

To finish, then, this long narration of horrid injustice, when, for the first time that congress listened to the expressions of your just indignation, they doubled their opposition, and endeavored to take advantage of the goodness and confidence reposed in them.

The delegation of the executive power, which was rejected as unconstitutional by the congress, is now offered to us by a commission from that congress, without the necessary modification to make it acceptable to the people. Its acknowledgment would be the signal of your destruction, and would tend to arm province against province, and brother against brother—thus realizing the views of those who formed it, for the purpose of prostrating your liberties.

Remember, then, generous inhabitants of this vast and powerful empire, that you now enjoy the independence and happiness which have been predicted at so many different periods by the politicians of Europe. You are now a sovereign people,—you have now entered into the great society of independent nations, to which you had every claim. Honor, national dignity, and the voice of nature, all commanded the colonies not to be colonies any longer, since they have arrived at maturity; and, although treated like colonies, they are capable of forming and maintaining a government independent of any foreign dominations. The same right which Portugal has to destroy its ancient institutions, and to establish new, you possess in an extended degree; you inhabit a vast and a spacious country, with a province, although disseminated, already greater than that of Portugal, and which promises to grow in power with unexampled rapidity. If Portugal denies to you this right, it renounces itself the right which it may claim, for the acknowledgment of its new constitution, from other nations.

Brazilians! Nothing further is to be done than to unite yourselves with inest love, and hopes;—to command the august assembly of Brazil to manage the helm of state, with justice and prudence, that we may avoid the rocks which the seas of revolutions unfortunately present to *France*, *Spain*, and even to *Portugal*.

Brazilians! Do not fear foreign nations: Europe which acknowledged the Independence of the United States of America, and which kept itself in a perfect state of neutrality towards the Spanish colonies; cannot fail to acknowledge Brazil, which, with so much justice, means and resources, also strives to enter into the great family of nations. We shall never interfere with their particular affairs, and consequently they will not obstruct the peaceful and free commerce which we shall offer to them, secured by a representative government which we shall establish.

Let no other shout be issued from your lips, but UNION; let no other word be reiterated, from the *Amazons* to the *Platte*, but INDEPENDENCE. Let all our provinces be strongly chained into unanimity, not to be broken by any force. Let all ancient prejudices be banished at once, substituting in their place the love of the public good. Let mean blasphemers, oh! Brazilians, declaim with injuries and slanders against you, against me, and against our liberal system; for if they praise us, Brazil might be ruined. Let them say that we act against Portugal, against our mother country, against our benefactors; we, supporting our rights, punishing by our justice, and consolidating our liberty, wish to free *Portugal* from a new class of tyrants.

Brazilians, in general! Friends, let us unite ourselves; I am your companion, I am your defender; let us obtain, as the only reward of our toils, the honor, glory and prosperity of Brazil; for the accomplishment of which, I shall always be at your front, in the most dangerous places. Permit me to convince you that your felicity depends on mine. It is my glory to rule an upright, valiant and free people. Give me the example of your virtues, and of your union, and be assured that I shall be worthy of you. In the Palace of the Rio Janeiro, on the first day of August, 1822.

Signed

DON PEDRO, Prince Regent.

174. *The United Provinces of Central America.*

Whereas the National Constituent Assembly of the said Provinces has decreed as follows:

Having discussed the subject, and received the Reports of the different Commissions which have laboured to collect and present to this Assembly all possible information on the above Points; considering all that may be necessary to the establishment of a New State; and also considering:—

First—That Independence of the Spanish Government has been and is necessary in the situation of that Nation, and that of all the Nations of America; that it was and is just in itself, and essentially consonant to the sacred rights of nature; that it was imperiously demanded by the lights of the Age, the necessities of the New World, and all the dearest interests of the People who inhabit it:

That Nature itself resists the dependence of this part of the Globe, separated by an immense Ocean from that which was its Metropolis, and with which it is impossible to maintain the immediate and frequent communication indispensable between the People of the same State:

That the experience of more than three hundred Years has convinced America that Her felicity was altogether incompatible with the nullity to which She was reduced by the sad condition of a Colony to a small part of Europe:

That the arbitrary manner in which She was governed by the Spanish Nation, and the conduct always pursued by it since the Conquest, excited in the People the most ardent desire to re conquer their usurped rights:

That, impelled by these just sentiments, all the Provinces of America threw off the yoke which had oppressed them for the space of three Centuries: That those of the ancient Kingdom of Guatemala gloriously proclaimed their Independence towards the close of 1821; and that the determination to preserve and maintain it is the general and uniform resolve of all its Inhabitants.

Secondly—Considering also, that the incorporation of these Provinces with the extinguished Mexican Empire, was effected, only *de facto*, at the end of 1821 and the beginning of 1822, and was a hasty decision extorted by vicious and illegal means: That it was neither granted nor pronounced, by legitimate organs or means: That in consequence the National Representatives of the Mexican State never expressly accepted it, nor could of right accept it; and that the orders dictated and expedited by Don Augustin Iturbide, respecting this Union are *null*:

That the said Union was, and is, contrary to the interests and sacred rights of the People we represent, and opposed to their will, and that the concurrence of circumstances so powerful and irresistible, requires that the Provinces of the ancient Kingdom of Guatemala should be constituted of themselves and separately from the Mexican State.

We, *therefore*, the Representatives of the said Provinces, in their names, with their authority, and conformably to their wishes, solemnly *declare*: “1. That the said Provinces, represented in this Assembly, are Free and Independent of Old Spain, of Mexico, and of every other power, whether in the old or the new world, and that they are not, and ought not to be, the patrimony of any person or family.

“2. That in consequence they are, and form, a sovereign nation, with the right freely to exercise and enjoy such acts, contracts, and functions, as are exercised and enjoyed by the other free people of the earth.

“3. That the abovenamed provinces represented in this assembly, and the others of those forming the ancient kingdom of Guatemala, which shall spontaneously unite themselves, shall, henceforth, without prejudice to the constitution about to be formed, be called, *The United Provinces of Central America.*

“And we command, that this declaration, and the act of our installation, shall be published with due solemnity in this town of Guatemala, and in all, and each of the towns represented in this assembly; and that they be printed and circulated; that they be communicated to the provinces of Leon, Granada, Costarrica, and Chiapas; and that they be communicated to the governments of Spain and Mexico, and to the other independent states of both Americas, in the form and manner which may be determined upon.

[Here follow the signatures of forty-three deputies.]

By the supreme executive authority: PEDRO MOLINA, President.

National Palace of Guatemala, July 11, 1823.

175. *Treaty of Perpetual Union, League, and Confederation, between Colombia and Mexico, published on the 20th of September, 1825.*

The Government of the Republic of Colombia, on the one part, and that of Mexico, on the other, sincerely desirous of terminating the evils of the present war, into which they have been forced by the King of Spain, and having determined to employ their whole naval and land forces in defence of their liberty; and anxious, also, that this league should be general among all the States of Spanish America, that they may contribute their united strength and resources to maintain the common cause of their independence, have appointed Plenipotentiaries, who have concluded the following treaty of union, league, and confederation:

Art. 1. The Republics of Colombia and Mexico unite, league, and confederate, forever, in peace and war, to maintain, with their naval and land forces, as far as circumstances may permit, their independence of Spain and all other foreign dominion; and, after the recognition of their independence, to assure their mutual prosperity, harmony, and good intelligence, both among their people and citizens, and the States with which they may institute relations.

Art. 2. The Republics of Colombia and Mexico therefore, enter into and mutually form, a perpetual compact of alliance, and firm and constant friendship, for their common defence, obliging themselves to aid each other, and mutually repel any attack or invasion that may, in any manner, menace the security of their independence and liberty, affect their interests, or disturb their peace: Provided, that, in the last case, requisition be made by one or other of two Governments legally established.

Art. 3. To effect the objects of the preceding article, the contracting parties promise to aid each other with the amount of land forces that may be fixed upon by special conventions, as the circumstances may demand, and during the continuance of the occasion.

Art. 4. The military navy of both contracting parties shall also be in fulfilment of the preceding convention.

Art. 5. In cases where aid is suddenly required, each party shall operate against the enemy with all the disposable forces within the territories of the other, if time be not allowed for concert between both governments. But the party thus operating shall observe the laws and ordinances of the State, as far as circumstances may permit, and shall respect and obey its Government. The expenses thus incurred, shall be fixed by separate conventions, and paid one year after the conclusion of the present war.

Art. 6. The contracting parties oblige themselves to furnish whatever assistance they may be able, to the military and mercantile vessels arriving at the ports of each other, from distress or other cause; and they shall have power to repair, refit, provision, arm, and increase their armament and crews, so as to be able to continue their voyages or cruises, at the expense of the State or individuals to whom they may belong.

Art. 7. To avoid abuses, by armed privateers, of the commerce of the State, and that of neutrals, the contracting parties agree to extend the jurisdiction of the maritime courts of each other, to their privateers and prizes, indifferently, when they cannot readily ascertain their port of departure, and abuses shall be suspected of the commerce of neutral nations.

Art. 8. The contracting parties mutually guaranty to each other the integrity of their respective territories, as they existed before the present war, recognizing, also, as part of this territory, what was not included in the Vice-royalties of Mexico and New Granada, but is now a component part of it.

Art. 9. The component parts of the territory of both parties shall be defined and recognized.

Art. 10. If internal quiet should, unfortunately, be disturbed, in the territory of either party, by disorderly men and enemies of legal government, the contracting parties engage to make common cause against them, until order and the empire of law be re-established.—Their forces shall be furnished as provided by Articles 2 and 3.

Art. 11. All persons taking arms against either Government, legally established, and fleeing from justice; if found within the territory of either contracting party, shall be delivered up, to be tried by the Government, against which the offence has been committed. Deserters from the army and navy are included in this article.

Art. 12. To strengthen the bonds of future union between the two states, and to prevent every interruption of their friendship and good intelligence, a congress shall be formed, to which each party shall send two plenipotentiaries, commissioned in the same form and manner as are observed towards ministers of equal grade to foreign nations.

Art. 13. Both parties oblige themselves to solicit the other co-adjutant Spanish States of America to enter into this compact of perpetual union, league and confederation.

Art. 14. As soon as this important purpose shall have been obtained, a general congress of the American States shall assemble, composed of their plenipotentiaries. Its object will be to confirm and establish intimate relations between the whole and each one of the States: it will serve as a council on great occasions; a point of union in common danger; a faithful interpreter of public treaties in cases of misunderstanding; and as an arbitrator and conciliator of disputes and differences.

Art. 15. The Isthmus of Panama being an integral part of Colombia, and the most suitable point for the meeting of the Congress, this republic promises to furnish to plenipotentiaries of the Congress all the facilities demanded by hospitality among a kindred people, and by the sacred character of ambassadors.

Art. 16. Mexico agrees to the same obligation, if ever, by the accidents of war, or the consent of a majority of the states, the congress should meet within her jurisdiction.

Art. 17. This compact of perpetual union, league, and confederation, shall not, in anywise, affect the exercise of the national sovereignty of either contracting party, in regard to its laws and form of government, or its foreign relations. But the parties bind themselves, positively, not to accede to any demand of indemnity, tribute, or impost from Spain, for the loss of her former supremacy over these countries, or from any other nation in her name. They also agree not to enter into any treaty with Spain, or any other nation, to the prejudice of their independence; but to maintain, at all times, their mutual interests, with the dignity and energy proper to free, independent, friendly, and confederate states.

Art. 18. Provides for the time of ratification of this treaty.

The foregoing treaty has been duly ratified.

GAUDALOUPE VICTORIA.

By the Pres't. Lucas Alaman.

176. *Treaty of Commerce and Navigation between Peru and Equator. Extract.*

[Lima, 27th Dec. 1832 Independence 13th.]

Art. 1. Citizens of Peru shall pay in Equator the same duties and enjoy the same commercial privileges and exemptions as if they were Equatorians—and citizens of Equator shall pay in Peru the same duties and enjoy the same commercial privileges and exemptions as if they were Peruvians.

Art. 2. All laws of prohibition and monopoly, which impede the free commerce of the fruits and productions of Peru and Equator, shall be abolished in each state.

Art. 3. The productions of the soil and industry of Equator, can only be introduced into the ports of Peru in Peruvian or Equatorian vessels; and the productions of the soil and industry of Peru, can only enter the ports of Equator, in vessels of one or the other nations.

Art. 4. All articles imported from either country into the other according to the terms of the foregoing article, shall pay no other duty than that of eight per cent. on their valuation at the place of entry, which duty shall include that known under the title of *duty of Consulado*.

Art. 5. Shall be excepted however from the regulation established in the preceding article—all brandy and sugar imported into Equator from Peru, the duties on which shall viz: twelve per cent. on the value of the sugar at the place of importation, and twelve reals on each arroba of brandy.*

Art. 6. In order that a vessel should be considered Peruvian or Equatorian, her master or mate, and at least one third of her crew must be natives of the Republic whose flag she bears, and she must moreover carry a certificate of her having been duly registered in her own country.

Art. 7. The minor ports (those which are not ports of entry) of each country, shall be open to Peruvian or Equatorian vessels, carrying the productions of their res.

*The arroba measures 981 cubic inches, or 4 galls. and one quart English wine measure.

pective countries, and foreign articles which have already paid duties in the ports of entry; but no foreign goods taken on board during the voyage, or on which duties have not been paid, can be landed in any minor port.

Art. 8. Equatorian vessels shall, however, be required to touch at some Peruvian port of entry, and there to pay duties on their cargoes according to invoice, before they can proceed to any of the minor ports of Peru for which they may be bound. They may however sail directly for a minor port, for the purpose of there taking in a cargo of Peruvian productions.

Art. 9. Peruvian vessels bound for any of the minor ports of Equator, shall touch first either at *Guayaquil* or *Monte Cristi*, which latter shall be immediately declared a port of entry. They may however enter freely into any port, for the purpose of taking a cargo of Equatorian productions.

Art. 10. Foreign goods warehoused in either State, cannot be withdrawn for exportation, in foreign vessels, to any port in Peru or Equator, unless said goods previous to their being warehoused, shall have formed a part of the cargo of the same vessel, in which they are to be exported.

Art. 11. A foreign vessel withdrawing warehoused goods, by virtue of the latter part of the tenth Article, must take a certified list of the same. Whenever a foreign vessel does not discharge the whole of its cargo at any port in Peru or Equator, a list of the remainder, specifying the number, marks and contents of the packages, as by the manifest, shall be made at the custom-house, and delivered sealed to the Captain, which list he must present before he can be allowed to unload, at any port of entry in the other country.

Art. 12. Equatorian vessels are to be considered Peruvian in Peru, and Peruvian vessels Equatorian in Equator, neither shall in the ports of the other pay any higher duties, of tonnage, anchorage, or any description whatever, than are paid by the vessels of the country in which the port is situated.

Art. 13. Vessels of either nation may be repaired and equipped in the ports of the other, in perfect security, receiving the same protection, and subject to no other duties, or liabilities than those of the country. This arrangement extends to ships of war, whose commanders, however, are to agree with the local authorities as the period of their stay.

Art. 14. No vessel can load, or unload, unless she arrives and departs furnished with the proper documents from the respective custom-houses. The custom-houses of each State shall correspond with those of the other, in order to communicate information as to the documents thus furnished; and they shall require from the Captains of vessels, certificates of their having complied with the proper forms, in the ports from which they came.

Art. 15. All officers of either country, guilty of having furnished false papers to vessels, shall on complaint being made by the government which suffered injury therefrom, be punished according to the law of their own nation, in the same manner as if the crime had been committed against itself.

Art. 16. All productions of either country, entering the other by land, shall be entirely exempt from all duty whatsoever.

Art. 17. Foreign goods introduced from the Province of Piura (Peru) into that of Loja (Equator) shall pay a duty of four per cent., upon their value.

Art. 18. The Governments of the contracting parties, may establish consuls wherever they may think necessary, for the reciprocal protection of commerce, who shall enjoy all the immunities customary among European nations.

Art. 19. The regulations of the post between the two countries, shall remain as at present established.

Done at Lima, this 27th of December, in the year of our Lord 1832, and of the Independence of Peru the 13th.

AUGUSTIN GAMARRA.

MANUEL DEL RIO, Secretary of State for Foreign Relations.

177. *Extracts from a Treaty of Friendship, Alliance, Commerce, and Navigation, between the United Provinces of the Rio de la Platte and Chili.*

Art. 2. The Representatives, &c. contract a perpetual alliance, for the maintenance of their Independence, against all foreign dominion whatever.

Art. 3. The Contracting Representatives bind themselves to guarantee the integrity of their Territories, and to co-operate against whatever foreign Power should attempt to alter, by force, their respective boundaries, as recognized before their emancipation, or subsequently in virtue of special treaties.

Art. 4. The Contracting Parties engage not to conclude treaties of peace, neutrality, or commerce, with the Spanish Government, unless preceded by a recognition on the part of that Government, of the Independence of all the States of America, formerly Spanish.

Art. 5. In respect of the alliance, their co-operation shall be regulated, conformably to the respective circumstances and resources of the contracting parties; articles not of the produce of either party, to pay ten per cent. duty.

Art. 6. The relations of amity, commerce, and navigation, between the two Republics, to be founded on a perfect reciprocity, &c.

Art. 9. All articles of produce or manufactures of the two Republics, to be introduced, by land, free of duties, &c.

Art. 18. Each of the Contracting Parties to name Consuls for the protection of commerce.

In Santiago de Chili, November 20, 1826; the 17th of liberty of both States.

IGNACIO ALVAREZ.

MANUEL J. GAUDARILLAS.

178. *Compensation of the Diplomatic Corps of Colombia.*

Decree of the Colombian Government regulating the Appointment of Diplomatic Characters and Consuls in Foreign Countries:

F. De Pauline Santander, Gen. Vice President, &c.

Art. 1. Ministers Plenipotentiaries from the Republic of Colombia, to the Courts of Europe, shall receive, indiscriminately, \$ 10,000 annually.

Art. 2. Ministers Plenipotentiaries to the American States, shall receive, indiscriminately, \$ 8,000 annually.

Art. 3. Chargé d'Affaires to the Governments of Europe and America, shall receive one half the salary allotted to Ministers Plenipotentiaries by the two foregoing articles.

Art. 4. Secretaries of Legation shall receive yearly one quarter of the sum received by the Ministers Plenipotentiaries under whom they serve.

Art. 5. Each secretaryship of Legation established in Europe or America shall have two assistants attached to it. The chief assistant shall receive in Europe \$ 1,800 annually, and in America \$ 1,500.

Art. 6. There shall be likewise six supernumerary assistants attached to each Secretary of Legation in Europe and America. These situations shall be filled by youth of good property, of upwards of 17 years of age, whose parents may design them for a diplomatic line. In order to advance their education under the Ministers Plenipotentiaries with whom they serve, \$ 600 shall be granted out of the National Treasury to those in Europe, and \$ 300 to those in America.

Art. 7. Consuls-General of the Republic shall receive in Europe \$ 3000, and in America \$ 2,500.

Art. 8. Special Consuls or Commercial Agents, in any foreign part, shall receive for their services merely the amount of emoluments derived from their fees, agreeably to established usage and custom until a new scale of fees be introduced.

Art. 9. The salaries of Diplomats shall commence from the day on which they leave the ports of the Republic for their destination.

Art. 10. The expenses to be incurred by Diplomats in their voyage, or journeys to and from the countries to which they are appointed, shall be defrayed separately out of the National Treasury, for which purpose an account and examination of the said expenses must be made.

Art. 11. The salaries and income of the Diplomats shall be paid entire and without deduction.

Given, &c. on the 7th of August, 1823; 13 of Independence.

By His Ex.: Pedro Gual.

F. de P. SANTANDER.

The following is a list of Treaties, based on their respective *models*, inserted elsewhere in this work: completing, it is believed, the entire body of Conventional Law of the New Nations of America.

179. BUENOS AYRES.—Treaty of Friendship and Alliance with Chili. Buenos Ayres, January, 1819.

[1.] CHILI.—Treaty of Friendship and Alliance with the United Provinces of the Rio de la Plata. Buenos Ayres, January, 1819.

[2.] Treaty of Perpetual Union, League, and Confederation, with Colombia. Santiago de Chili, October 21, 1822.

[3.] COLOMBIA.—Treaty of Perpetual Union, League, and Confederation with Peru. Lima, July 6, 1822.

[4.] Ditto, additional do.

[5.] Treaty of Friendship and Alliance with Buenos Ayres. B. Ayres, Mar. 8. 1823.

[6.] Treaty of Perpetual Union, League, and Confederation with the United Provinces of Central America. Bogota, March 15, 1825.

[7.] Treaty of Friendship, Navigation, and Commerce with the Netherlands. London, May 1, 1829.

[8.] GUATEMALA.—Treaty of Perpetual Union, League, and Confederation with Colombia. Bogota, March 15, 1825.

[9.] PORTUGAL.—Treaty with Brazil, concerning the recognition of the Independence of Brazil. Rio de Janeiro, August 29, 1825.

[10.] BOLIVIA.—Treaty of Federation with Peru. Chequisaca, Nov. 15, 1826.

[11.] MEXICO.—Convention of Commerce and Navigation with France. London, June 20, 1827.

[12.] BRAZIL.—Treaty of Commerce and Navigation with Austria. Vienna, June 16, 1827.

[13.] Treaty of Friendship, Commerce, and Navigation with Prussia. Rio de Janeiro, July 9, 1827.

[14.] Treaty of Friendship, Commerce, and Navigation with the Netherlands. Rio de Janeiro, December 20, 1823.

180. *Treaty between Austria and Switzerland, for the mutual Surrender of Criminals.*—Signed at Turich, 14th July, 1828. *Extract.*

Art. 1. The mutual surrender of Criminals to be established by the present convention shall only take place on account of serious offences. By serious offences shall be understood, high treason and rebellion, murder committed deliberately, and with pre-meditation; theft in open bleaching grounds, stealing of horses or of cattle from open meadows, highway robbery, abstraction or peculation of public money, forgery of State credit paper, which either passes as money, or is issued as bonds from a public chest, forgery of private bonds and bills of exchange, coinage, and fraudulent bankruptcies.

Art. 2. Austrian subjects, who shall have committed a serious crime in the Austrian States, or shall have been guilty, in Switzerland, of the crime of high treason, rebellion, or the forgery of State credit paper, or money which has reference to the Austrian States, and shall have fled to Switzerland, shall be given up to Austria.

Persons belonging to Switzerland, who shall have committed a serious crime in Switzerland, or shall have been guilty in the Austrian States of the crime of high treason, rebellion, or the forgery of State credit paper, money which has reference to the Confederation, or the several Cantons, and shall have fled to the Austrian States, shall be given up to Switzerland.

Art. 4. When a delinquent claimed by one of the contracting States shall have committed a greater, or as great a crime, in the dominion of the other State, in such case the surrender shall not take place until after trial and the execution of the sentence in the latter State.

Art. 5. Should it be necessary for the investigation of an offence or of the circumstances connected with it, that Austrian subjects, or persons belonging to Switzerland, should be interrogated on oath as witnesses, they shall after a formal application, give oral evidence before a Judge of their own country, according to the usual form. The personal attendance of the witnesses may, moreover, be required by the Government

authorities, in extraordinary cases; viz: when it is necessary to establish the identity of a delinquent, or the facts of the case; and, whenever a mere voluntary deposition of a witness is intended to be taken, the oral evidence cannot be dispensed with. Should such depositions, however be intended to go beyond a voluntary evidence, or to the implication of the witness with the criminal, this intention must be expressed in the application. It will then depend on the National Judge of the witness so summoned, whether his personal appearance shall be permitted, or the proper measures be taken by himself as regards the witness.

6. If an Austrian subject, or a person belonging to Switzerland, be brought up for examination, within the State to which he belongs, and be found guilty of a serious crime which he may have committed within the dominion of the other contracting party, notice shall be given thereof to the proper authorities of that State, and they shall be particularly informed of whatever, in the process may be of moment, in order to the discovery of all and each of the accomplices who may be resident in the last mentioned State, so that those persons may be brought to justice.

Art. 7. In cases where the surrender of a criminal is demanded, neither the confession nor the conviction of the offender is required for that purpose; it is sufficient that proof be shown, by the State which desires the surrender, that a process has been instituted against the individual, on account of one of the crimes mentioned in Article 1., and that the proofs or important facts be stated, upon which the accusation is founded.

Art. 8. The surrender must be applied for in a diplomatic manner, whether the capture be to be effected at the instance of the examining authorities, or of the magistracy of the place. The Austrian tribunals shall, therefore, apply directly to the government of the Cantons, and they, on the other hand, shall apply directly to the Austrian government. The completion of the surrender, however, shall not take place until the identity of the criminal be proved and the forms prescribed in Article 7, shall have been complied with.

Art. 11. All things which the criminal may have brought with him, as the produce of his crime, into one country, and which crime shall be proved against him in the other, shall be returned gratis. The delivery of these things, as well as of those belonging to the criminal himself shall take place, on every occasion, at the nearest judicial or police station of the claiming party.

Art. 12. Should any of the Articles of this Treaty hereafter require explanation, a good understanding shall be entered into thereupon, by diplomatic proceedings.

Done at Turich, 14th July, 1828.

VINCENT RUTTIMAN,

A. VON STEIGER.

EUROPE.—DECLARATION OF INDEPENDENCE.

181. *Belgium.*

PROCLAMATION du Congrès National, sur l'Indépendance du Peuple Belge.

Au nom du Peuple Belge :

Le Congrès National de la Belgique, proclame l'Indépendance du Peuple Belge, sauf les relations du Luxembourg avec la Confédération Germanique.

Bruxelles, le 18 Novembre, 1830.

Le Président du Congrès National, SURLET DE CHOKIER.

Les Secrétaires, Membres du Congrès National : NOTHOMB.

LEIDTS.

Le Vicomte VILAIN XIV.

FORGEUR.

182. *Treaty acknowledging Belgian Independence by the Five Great Powers. Ext.*

Art. 1. Le territoire Belge se compose des provinces de :

Brabant méridional ; Liège ; Namur ; Hainaut ; Flandre occidentale ; Flandre orientale ; Anvers et Limbourg ; telles qu'elles ont fait partie du royaume-uni des Pays-Bas constitué en 1815, à l'exception des districts de la province de Limbourg, désignés dans l'article 4.

Le territoire Belge comprendra en outre la partie du Grand-Duché de Luxembourg, indiquée dans l'article 2.

Art. 2. S. M. le roi des Pays-Bas, Grand-Duc de Luxembourg, consent à ce que dans le Grand-Duché de Luxembourg, les limites du territoire Belge soient telles qu'elles vont être décrites ci-dessous:

A partir de la frontière de France entre Rodangé, qui restera au Grand-Duché de Luxembourg, et Athus qui appartiendra à la Belgique, il sera tiré, d'après la carte ci-jointe, une ligne qui, laissant à la Belgique la route d'Arlon à Longwy, la ville d'Arlon avec sa banlieue et la route d'Arlon à Bastogne, passera entre Messancy, qui sera sur le territoire Belge, et Clemency qui restera au Grand-Duché de Luxembourg pour aboutir à Steinfort, lequel endroit restera également au Grand-Duché; de Steinfort cette ligne sera prolongée dans la direction d'Eischen, de Heebus, Guirsch, Oberpalen, Grende, Nothomb, Pareth et Perlé jusqu'à Martelange; Heebus, Guirsch, Grende, Nothomb et Pareth devant appartenir à la Belgique, et Eischen, Oberpalen, Perlé et Martelange au Grand-Duché. De Martelange, ladite ligne descendra le cours de la Sûre dont le Thalweg servira de limite entre les deux états jusque vis-à-vis Tintange, d'où elle sera prolongée aussi directement que possible vers la frontière actuelle de l'arrondissement de P. et passera entre Surret, Harlange, Tarchamps qu'elle laissera au Grand-Duché de Luxembourg, et Honville, Livarchamp et Loutermange qui feront partie du territoire Belge; atteignant ensuite aux environs de Doncols et de Sonlez qui resteront au Grand-Duché, la frontière actuelle de l'arrondissement de Diekirch, la ligne en question suivra ladite frontière jusqu'à celle du territoire Prussien. Tous les territoires, villes, places et lieux situés à l'ouest de cette ligne appartiendront à la Belgique, et tous les territoires, villes, places et lieux situés à l'est de cette même ligne continueront d'appartenir au Grand-Duché de Luxembourg.

Il est entendu qu'en traçant cette ligne et en se conformant autant que possible à la description qui en a été faite ci-dessus, ainsi qu'aux indications de la carte jointe pour plus de clarté au présent article, les commissaires démarcateurs dont il est fait mention dans l'art. 5, auront égard aux localités, ainsi qu'aux convenances qui pourront en résulter mutuellement.

Art. 3. S. M. le roi des Pays-Bas, Grand-Duc de Luxembourg, recevra pour les cessions faites dans l'article précédent une indemnité territoriale dans la province du Limbourg.

Art. 4. En exécution de la partie de l'art. 1er relative à la province du Limbourg, et par suite de cessions que S. M. le roi des Pays-Bas fait dans l'art 2, sadite majesté possédera, soit en sa qualité de Grand-Duc de Luxembourg, soit pour être réunies à la Hollande, les territoires dont les limites sont indiquées ci-dessous:

1^o *Sur la rive droite de la Meuse :*

Aux anciennes enclaves Hollandaises, sur ladite rive, dans la province du Limbourg, seront joints les districts de cette même province, sur cette même rive qui n'appartenait pas aux états-généraux en 1790, de façon que la partie de la province actuelle du Limbourg, située sur la rive droite de la Meuse et comprise entre ce fleuve à l'ouest, la frontière du territoire Prussien à l'est, la frontière actuelle de la province de Liège au midi, et la Gueldre Hollandaise au nord, appartiendra désormais tout entière à S. M. le roi des Pays-Bas, soit en sa qualité de Grand-Duc de Luxembourg, soit pour être réunis à la Hollande.

2^o *Sur la rive gauche de la Meuse :* à partir du point le plus méridional de la province Hollandaise du Brabant septentrional, il sera tiré, d'après la carte ci-jointe, une ligne qui aboutira à la Meuse au-dessus de Wessem entre cet endroit et Stevenweert au point où se touchent sur la rive gauche les frontières des arrondissemens actuels de Ruremonde et de Maëstricht, de manière que Bergerot, Stamproy, Neer-Itteren, Itterwood et Thorn, avec leurs banlieues, ainsi que tous les autres endroits situés au nord de cette ligne, seront partie du territoire Hollandais.

Les anciennes enclaves Hollandaises, dans la province de Limbourg, sur la rive gauche de la Meuse, appartiendront à la Belgique, à l'exception de la ville de Maëstricht, laquelle, avec un rayon de territoire de 1200 toises, à partir du glacis extérieur de la place sur ladite rive de ce fleuve, continuera d'être possédée en toute souveraineté et propriété par S. M. le roi des Pays-Bas.

Art. 5. S. M. le roi des Pays-Bas, Grand-Duc de Luxembourg, s'entendra avec la confédération Germanique et les agnats de la maison de Nassau, sur l'application des stipulations renfermées dans les articles 3 et 4, ainsi que sur tous les arrangements que

lesdits articles pourraient rendre nécessaires, soit avec les agnats ci-dessus nommés de la maison de Nassau, soit avec la confédération Germanique.

Art. 6. Moyennant les arrangements territoriaux ci-dessus, chacune des deux parties renonce réciproquement pour jamais, à toute prétention sur les territoires, villes, places et lieux situés dans les limites des possessions de l'autre partie, telles qu'elles se trouvent décrites dans les articles 1, 2 et 4.

Lesdites limites seront tracées conformément à ces mêmes articles par des commissaires-démarcateurs Belges et Hollandais qui se réuniront le plus tôt possible en la ville de Maestricht.

Art. 7. La Belgique dans les limites indiquées aux articles 1, 2 et 4 formera un état indépendant et perpétuellement neutre. Elle sera tenue d'observer cette même neutralité envers tous les autres états.

Art. 8. L'écoulement des eaux des Flandres sera réglé entre la Hollande et la Belgique d'après les stipulations arrêtées à cet égard dans l'art. 6 du traité définitif conclu entre S. M. l'empereur d'Allemagne et les Etats-Généraux, le 8 novembre, 1785, et conformément audit article, des commissaires nommés de part et d'autre s'entendront sur l'application des dispositions qu'il consacre.

Art. 26. A la suite des stipulations du présent traité il y aura paix et amitié entre S. M. le roi des Belges d'une part, et leurs majestés l'empereur d'Autriche, le roi des Français, le roi du royaume-uni de la Grande-Bretagne et d'Irlande, le roi de Prusse et l'empereur de toutes les Russies de l'autre part, leurs héritiers et successeurs, leurs états et sujets respectifs, à perpétuité.

Art. 27. Le présent traité sera ratifié et les ratifications en seront échangées à Londres, dans le terme de deux mois, ou plus tôt si faire se peut.

En foi de quoi les plénipotentiaires respectifs l'ont signé et y ont apposé le cachet de leurs armes.

Fait à Londres, le quinze de novembre, l'an de grace mil huit cent trente et un.

S. VAN DE WEYER, ESTERHAZY, WESSENBERG, TALLEYRAND,
PALMERSTON, BULOW, LIEVEN, MATUSZEWIC.

183. *Agency for recaptured Africans, and the Colony at Liberia.*

The Act of Congress of March 3, 1819, entitled "An Act in addition to the acts, prohibiting the slave trade," (3d vol. Story's edit. U. S. p. 1752,) after empowering the President to employ the armed vessels of the United States to enforce former acts prohibiting the slave trade, and providing for the disposition of vessels offending against them, and of the negroes, &c. found on board, enacts, in the second section:

Sec. 2. That the President of the United States be, and he is hereby, authorized to make such regulations and arrangements as he may deem expedient, for the safe keeping, support, and removal beyond the limits of the United States, of all such negroes, mulattoes, or persons of color, as may be so delivered and brought within their jurisdiction; and appoint a proper person or persons, residing upon the coast of Africa, as agent or agents for receiving the negroes, mulattoes, or persons of color, delivered from on board vessels, seized in the prosecution of the slave trade, by commanders of the United States' armed vessels.

[When this law was passed, and for several years before, the American Colonization Society, had an agent residing in their colony at Liberia. This officer has since the passage of the law been charged by the Government of the United States with the duties specified in the last clause of the section just cited; for the performance of which he receives an annual salary of sixteen hundred dollars, payable out of the Treasury of the United States.]

184. *Opinion of the Attorney-General of the United States, as to the Powers of the Agency on the Coast of Africa, addressed to the Secretary of the Navy.*

Sir: In reply to your communication of Saturday, I have to state, that I am not aware of the existence of any act of Congress which authorizes the agent of the U. States, residing at Liberia, on the coast of Africa, to purchase arms for the defence of the negroes, &c. &c. received by him, in pursuance of the act of 3d. March, 1819, nor do I think that purchases can be justified, by any fair construction of that act.

I do not enter into the consideration of the very grave and interesting question

which might arise from the exercise of such a power, but confine my view to the provisions of the act. It has two objects:

First, To provide for the safe-keeping and support, within the United States, and for the removal beyond its limits of all negroes, &c. brought within its jurisdiction, under the provisions of the act.

Second, To authorize the appointment of an agent to receive the negroes, &c. &c. who may be delivered from on board vessels seized in the prosecution of the slave trade, &c. &c.

No provision is made for the support and keeping of these negroes beyond the limits of the United States, except by necessary implication, during their transit therefrom, and up to the time of their delivery to the agent of the United States, and of such of them as may be taken from on board vessels seized, &c. &c.

When that delivery takes place, the purpose of the law is accomplished. The agent is *functus officio*, and his authority, so far as it may rest upon this law, is at an end.

I am, &c.

JN: MACPHERSON BERRIEN.

Washington, 21 September, 1829.

185. *China—Criminal Laws; and Proclamation, concerning the Visit of the United States' Ship Vincennes*

A Translation of Extracts from the Chinese Code of Laws:

Transmitted to the president of the select committee, by the viceroy of Canton, in April, 1800.

1. A man who kills another on the suspicion of theft, shall be strangled according to the law against homicide committed in an affray.

2. A man who fires at another with a musket, and kills him thereby, shall be beheaded, as in case of wilful murder; if the sufferer is wounded, but not mortally, the offender shall be sent into exile.

3. A man who puts to death a criminal who had been apprehended and made no resistance, shall be strangled according to the law against homicide committed in an affray.

4. A man who falsely accuses an innocent person of theft, in cases of greatest criminality, is guilty of a capital offence; in all other cases, the offenders, whether principals or accessories, shall be sent into exile.

5. A man who wounds another unintentionally, shall be tried according to the law respecting blows given in an affray, and the punishment rendered more or less severe, according to the degree of injury sustained.

6. A man who, intoxicated with liquor, commits outrage against the laws, shall be exiled to a desert country, there to remain in a state of servitude.

The foregoing are articles of the laws of the empire of China, according to which judgment is passed on persons offending against them, without allowing of any compromise or extenuation.

Government Edict, concerning the United States' Ship Vincennes:

Kwo--acting Keun-Min Foo, &c. hereby strictly prohibits compradors from clandestinely carrying provisions.

The pilots have reported that on the 9th day of the 12th month of the present year, Peen-eh-Finch's American cruiser, having met with strong and adverse winds, anchored in the offing at the Nine Islands, waiting for a fair wind to enable her to set sail, and go away, etc.

At that time I made a general report according to the facts, and sent despatches to civil and military officers, to guard and keep a strict watch, and to urge her to make haste and set sail, not permitting her to linger about and create disturbances. This is on record.

It appears that when the said nation's cruisers came to Canton, not being for the purpose of giving convoy to their merchant ships, heretofore the officers of government have not permitted them to have compradors.

Being really apprehensive that traitorous and designing natives will clandestinely afford supplies, and that Whampoa compradors, making a pretext of having licenses, and aiming at gain, will pretend to carry provisions to English, American, and ships of other foreign nations, and secretly deliver them to the cruiser, or that fishing and tanka boats, carrying provisions and other things, will go alongside and keep up their supplies, by which a heavy offence will be incurred; it is proper to issue a strictly prohibitory proclamation:

I, therefore, proclaim to the military and the people, to the fishermen, and those in tanka boats, as well as to the Whampoa compradors, etc. for their full information, that if any designing natives, coveting gain, clandestinely carry provisions to the American nation's cruiser, or make a false pretext of loading provisions for delivery to the ships of other nations, and go to the American to keep up her supplies, immediately on apprehension, they will decidedly be severely punished.

I will maintain the laws immovable as a mountain. Positively no indulgence will be shewn.— Let every one implicitly obey. Do not oppose. A special proclamation.

9th year, 12th month, 16th day (10th January, 1830.)

TAOU KWANG.

186. *To complete the view of our Foreign Relations to the present time, the subjoined passages, from the Annual Executive Message to Congress, of the 3d of December, 1833, form an official Exposé of the state of our Affairs with Foreign Nations:*

GREAT BRITAIN.—“The interesting question of our *Northeastern boundary* (1) remains still undecided. A *negotiation*, however, upon that subject, has been renewed since the close of the last Congress, and a proposition has been submitted to the British Government, with the view of establishing, in conformity with the resolution of the Senate, *the line designated by the treaty of 1783*. Though no definitive answer has been received, it may be daily looked for, and I entertain a hope that the overture may ultimately lead to a satisfactory adjustment of this important matter.

“I have the satisfaction to inform you that a *negotiation* which, by desire of the House of Representatives, was opened, some years ago, with the British Government for the erection of light-houses on the Bahamas, has been successful. Those works, when completed, together with those which the United States have constructed on the western side of the *Gulf of Florida*, will contribute essentially to the safety of navigation in that sea. This joint participation in establishments, interesting to humanity, and beneficial to commerce, is worthy of two enlightened nations, and indicates feelings which cannot fail to have a happy influence upon their political relations. It is gratifying to the friends of both, to perceive that the intercourse between the two people is becoming daily more extensive, and that sentiments of mutual good, will have grown up, befitting their common origin, justifying the hope, that, by wise counsels on each side, not only unsettled questions may be satisfactorily terminated, but new causes of misunderstanding prevented.

FRANCE.—“Notwithstanding that I continue to receive most amicable assurances from the Government of *France*, and that in all other respects the most friendly relations exist between the United States and that Government, it is to be regretted that the stipulations of the *convention concluded on the 4th of July, 1831*, (2) remain, in some important parts, unfulfilled.

“By the second article of that *convention*, it was stipulated that the sum payable to the United States should be paid at Paris, in six annual instalments, into the hands of such person or persons as should be authorized by the Government of the United States to receive it; and by the same article, the first instalment was payable on the second day of February, 1833. By the act of Congress, of the 13th July, 1832, it was made the duty of the Secretary of the Treasury to cause the several instalments, with the interest thereon, to be received from the French Government, and transferred to the United States, in such manner as he may deem best; and by the same act of Congress, the stipulations on the part of the United States, in the convention, were, in all respects, fulfilled. Not doubting, that a treaty thus made and ratified by the two Governments, and faithfully executed by the United States, would be promptly complied with by the other party, and desiring to avoid the risk and expense of intermediate agencies, the Secretary of the Treasury deemed it advisable to receive and transfer the first instalment by means of a draft upon the French Minis-

(1) See Vol. 2, page 573.

(2) See Vol. 1, page 524, and Vol. 2, page 133, and head 125, French Claims, p. 595.

ter of Finance. A draft for this purpose was accordingly drawn in favor of the Cashier of the Bank of the United States, for the amount accruing to the United States out of the first instalment, and the interest payable with it. This bill was not drawn at Washington until five days after the instalment was payable at Paris, and was accompanied by a special authority from the President, authorising the Cashier, or his assigns, to receive the amount. The mode thus adopted of receiving the instalment, was officially made known to the French Government by the American Chargé d'Affaires at Paris, pursuant to instructions from the Department of State. The bill, however, though not presented for payment, until the 23d day of March, was not paid, and for the reason assigned by the French Minister of Finance, that no appropriation had been made by the French Chambers. It is not known to me that, up to that period, any appropriation had been required of the Chambers; and although a communication was subsequently made to the Chambers by direction of the King, recommending that the necessary provision should be made for carrying the convention into effect, it was at an advanced period of the session, and the subject was finally postponed until the next meeting of the Chambers.

“Notwithstanding it has been supposed by the French ministry that the financial stipulations of the treaty cannot be carried into effect without an appropriation by the Chambers, it appears to me to be not only consistent with the character of France, but due to the character of both governments, as well as to the rights of our citizens, to treat the convention, made and ratified in proper form, as pledging the good faith of the French Government for its execution, and as imposing upon each department an obligation to fulfil it; and I have received assurances through our Chargé d'Affaires at Paris, and the French Minister Plenipotentiary at Washington, and more recently through the minister of the United States at Paris, that the delay has not proceeded from any indisposition on the part of the King and his ministers to fulfil the treaty, and that measures will be presented at the next meeting of the Chambers, and with a reasonable hope of success, to obtain the necessary appropriation.

“It is necessary to state, however, that the documents, except certain lists of vessels captured, condemned, or burnt at sea, proper to facilitate the examination and liquidation of the reclamations comprised in the stipulations of the convention, and which, by the sixth article, France engaged to communicate to the United States by the intermediary of the Legation, though repeatedly applied for by the American Chargé d'Affaires, under instructions from this Government, have not yet been communicated; and this delay, it is apprehended, will necessarily prevent the completion of the duties assigned to the commissioners within the time at present prescribed by law.

“The reasons for delaying to communicate these documents have not been explicitly stated, and this is the more to be regretted, as it is not understood that the interposition of the Chambers is in any manner required for the delivery of those papers.

“Under these circumstances, in a case so important to the interests of our citizens and to the character of our country, and under disappointments so unexpected, I deem it my duty, however I might respect the general assurances to which I have adverted, no longer to delay the appointment of a *Minister Plenipotentiary to Paris*, but to despatch him in season to communicate the result of his application to the

French Government at an early period of your session. I accordingly appointed a distinguished citizen for this purpose, who proceeded on his mission in August last, and was presented to the King early in the month of October. He is particularly instructed as to all matters connected with the present posture of affairs; and I indulge the hope that, with the representations he is instructed to make, and from the disposition manifested by the King and his ministers, in their recent assurances to our minister at Paris, the subject will be early considered and satisfactorily disposed of at the next meeting of the Chambers.

“As this subject involves important interests, and has attracted a considerable share of the public attention, I have deemed it proper to make this explicit statement of its actual condition; and should I be disappointed in the hope now entertained, the subject will be again brought to the notice of Congress in such a manner as the occasion may require.

RUSSIA.—“The friendly relations which have always been manifested between the United States and *Russia*, have been further extended and strengthened by the *treaty of navigation and commerce*, concluded on the 6th of December last, (3) and sanctioned by the Senate before the close of its last session. The ratifications having been since exchanged, the liberal provisions of the treaty are now in full force; and, under the encouragement which they have received, a flourishing and increasing commerce, yielding its benefits to the enterprise of both nations, affords to each the just recompense of wise measures, and adds new motives for that mutual friendship which the two countries have hitherto cherished towards each other.

SPAIN.—“It affords me peculiar satisfaction to state that the Government of Spain has at length yielded to the justice of the claims which have been so long urged in behalf of our citizens, and has expressed a willingness to provide an indemnification as soon as the proper amount can be agreed upon. Upon this latter point, it is probable an understanding had taken place between the minister of the United States and the Spanish Government before the decease of the late King of Spain; and, unless that event may have delayed its completion, there is reason to hope that it may be in my power to announce to you, early in your present session, the conclusion of a *convention* upon terms not less favorable than those entered into for similar objects with other nations. That act of justice would well accord with the character of Spain, and is due to the United States from their ancient friend. It could not fail to strengthen the sentiments of amity and good will between the two nations which it is so much the wish of the United States to cherish, and so truly the interest of both to maintain.

“By the first section of an act of Congress passed on the 13th July, 1832, the tonnage duty on Spanish ships arriving from the ports of *Spain*, (4) was limited to the duty payable on American vessels in the ports of Spain, previous to the 20th October, 1817, being five cents per ton. That act was intended to give effect, on our side, to an arrangement made with the Spanish Government, by which discriminating duties of tonnage were to be abolished in the ports of the United States and Spain, on the vessels of the two nations. Pursuant to that arrangement, which was carried into effect on the part of Spain, on the 20th of May, 1832, by a royal order dated the 29th April, 1832, American vessels in the ports of Spain have paid five

(3) See Vol. 1, page 537.

(4) See Vol. 1, page 139, and Supplement, Vol. 2, page 132.

cents per ton, which rate of duty is also paid in those ports by Spanish ships; but, as American vessels pay no tonnage duty in the ports of the United States, the duty of five cents payable in our ports by Spanish vessels, under the act above mentioned, is really a discriminating duty, operating to the disadvantage of Spain. Though no complaint has yet been made on the part of Spain, we are not the less bound by the obligations of good faith to remove the discrimination; and I recommend that the act be amended accordingly. As the royal order, above alluded to, includes the ports of the Balearic and Canary Islands, as well as those of Spain, it would seem that the provisions of the act of Congress should be equally extensive; and that, for the repayment of such duties as may have been improperly received, an addition should be made to the sum appropriated at the last session of Congress for refunding discriminating duties.

“As the arrangement referred to, however, did not embrace *the Islands of Cuba and Porto Rico*, discriminating duties, to the prejudice of American shipping, continue to be levied there. From the extent of the commerce carried on between the United States and those Islands, particularly the former, this discrimination causes serious injury to one of those great national interests which it has been considered an essential part of our policy to cherish, and has given rise to complaints on the part of our merchants. Under instructions given to our minister at Madrid, earnest representations have been made by him to the Spanish government upon this subject, and there is reason to expect, from the friendly disposition which is entertained towards this country, that a beneficial change will be produced. The disadvantage, however, to which our shipping is subjected by the operation of these discriminating duties, requires that they be met by suitable countervailing duties during your present session, power being at the same time vested in the President to modify or discontinue them as the discriminating duties on American vessels or their cargoes may be modified or discontinued at those Islands. Intimations have been given to the Spanish Government that the United States may be obliged to resort to such measures as are of necessity for self-defence; and there is no reason to apprehend that it would be unfavorably received. The proposed proceedings, if adopted, would not be permitted, however, in any degree to induce a relaxation in the efforts of our minister to effect a repeal of this irregularity, by friendly negotiation; and it might serve to give force to his representations, by showing the dangers to which that valuable trade is exposed by the obstructions and burdens which a system of discriminating and countervailing duties necessarily produces.

“The selection and preparation of the *Florida* archives, for the purpose of being delivered over to the United States, in conformity with the royal order, as mentioned in my last annual message, though in progress, has not yet been completed. This delay has been produced partly by causes which were unavoidable, particularly the prevalence of cholera at Havana; but measures have been taken which it is believed will expedite the delivery of those important records.

PORTUGAL.—“Congress were informed, at the opening of the last session, that, ‘owing, as was alleged, to embarrassments in the finances of *Portugal*, consequent upon the civil war in which that nation was engaged,’ payment had been made of only one instalment of the amount which the Portuguese Government had stipulated to pay for indemnifying our citizens for property illegally captured in the blockade of *Terceira*. Since that time, a postponement for two years, with interest, of the two re-

maining instalments, was requested by the Portuguese Government; and, as a consideration, it offered to stipulate, that rice of the United States should be admitted into Portugal at the same duties as Brazilian rice. Being satisfied that no better arrangement could be made, my consent was given; and a royal order of the King of Portugal was accordingly issued on the 4th of February last for the reduction of the duty on rice of the United States. It would give me great pleasure if, in speaking of that country, in whose prosperity the United States are so much interested, and with whom a long subsisting, extensive, and mutually advantageous commercial intercourse has strengthened the relations of friendship, I could announce to you the restoration of its internal tranquillity.

DENMARK.—“Subsequently to the commencement of the last session of Congress, the final instalment payable by *Denmark*, (5) under the convention of the 28th day of March, 1830, was received. The commissioners for examining the claims have since terminated their labors, and their awards have been paid at the Treasury as they have been called for. The justice rendered to our citizens by that Government is thus completed, and a pledge is thereby afforded for the maintenance of that friendly intercourse becoming the relations that the two nations mutually bear to each other.

“It is satisfactory to inform you that the Danish Government have recently issued an ordinance by which the commerce with *the Island of St. Croix* is placed on a more liberal footing than heretofore. This change cannot fail to prove beneficial to the trade between the United States and that colony; and the advantages likely to flow from it may lead to greater relaxations in the colonial systems of other nations.

THE TWO SICILIES.—“The ratifications of the convention with the King of *the Two Sicilies* (6) have been duly exchanged, and the commissioners appointed for examining the claims under it have entered upon the duties assigned to them by law. The friendship that the interests of the two nations require of them being now established, it may be hoped that each will enjoy the benefits which a liberal commerce should yield to both.

BELGIA.—“A treaty of *amity and commerce* between the United States and *Belgium* was concluded, during the last winter, and received the sanction of the Senate; but the exchange of the ratifications have been hitherto delayed, in consequence, in the first instance, of some delay in the reception of the treaty at Brussels, and, subsequently, of the absence of the Belgian Minister of Foreign Affairs, at the important conferences in which his Government is engaged at London. That treaty does but embody those enlarged principles of friendly policy which, it is sincerely hoped, will always regulate the conduct of the two nations, having such strong motives to maintain amicable relations towards each other, and so sincerely desirous to cherish them. (7)

TURKEY.—“With all the other European Powers with whom the United States have formed diplomatic relations, and with *the Sublime Porte* (8) the best understanding prevails. From all, I continue to receive assurances of good will

(5) See page 453, Vol. 1.

(6) See page 550, Vol. 1.

(7) See from pages 695 to 695 on Belgian Independence, &c. Vol. 2.

(8) See page 521, Vol. 1.

towards the United States—assurances which it gives me no less pleasure to reciprocate than to receive. With all, the engagements which have been entered into, are fulfilled with good faith on both sides. Measures have also been taken to enlarge our friendly relations and extend our commercial intercourse with other States. The system we have pursued of aiming at no exclusive advantages, of dealing with all on terms of fair and equal reciprocity, and of adhering scrupulously to all our engagements, is well calculated to give success to efforts intended to be mutually beneficial.

SOUTH AMERICA.—“The wars, of which the *Southern part of this continent* was so long the theatre, and which were carried on, either by the mother country against the States which had formerly been her colonies, or by the States against each other, having terminated, and their civil dissensions having so far subsided, as, with few exceptions, no longer to disturb the public tranquillity, it is earnestly hoped those States will be able to employ themselves without interruption in perfecting their institutions cultivating the arts of peace, and promoting, by wise counsels and able exertions, the public and private prosperity which their patriotic struggles so well entitle them to enjoy.

COLOMBIA.—“With those States our relations have undergone but little change during the present year. No reunion having yet taken place between the States which composed the Republic of *Colombia*, (9) our Chargé d’Affaires at *Bogota* has been accredited to the Government of *New Grenada*, and we have therefore no diplomatic relations with *Venezuela* and *Equator*, except as they may be included in those heretofore formed with the *Colombian Republic*. It is understood that representatives from the three States were about to assemble at *Bogota*, to confer on the subject of their mutual interests, particularly that of their union; and if the result should render it necessary, measures will be taken on our part to preserve with each that friendship and those liberal commercial connexions which it has been the constant desire of the United States to cultivate with their sister republics of this hemisphere. Until the important questions of reunion shall be settled, however, the different matters which have been under discussion between the United States and the Republic of *Colombia*, or either of the States which composed it, are not likely to be brought to a satisfactory issue.

CENTRAL AMERICA.—“In consequence of the illness of the Chargé d’Affaires appointed to *Central America* (10) at the last session of Congress, he was prevented from proceeding on his mission until the month of October. It is hoped, however, that he is by this time at his post, and that the official intercourse, unfortunately so long interrupted, has been thus renewed on the part of the two nations, so amicably and advantageously connected by engagements founded on the most enlarged principles of commercial reciprocity.

“It is gratifying to state that, since my last annual message, some of the most important claims of our fellow-citizens upon the Government of *Brazil* have been satisfactorily adjusted, and a reliance is placed on the friendly dispositions manifested by it that justice will also be done in others. No new causes of complaint have arisen; and the trade between the two countries flourishes under the encouragement secured to it by the liberal provisions of the treaty.

(9) See page, Vol. 2, and 139.

(10) See vol. 2, page 41.

MEXICO.—“It is cause of regret, that, owing probably to the civil dissensions which have occupied the attention of the *Mexican Government* (11) the time fixed by the treaty of limits which the United States for the meeting of the commissioners to define the boundaries between the two nations, has been suffered to expire without the appointment of any commissioners on the part of that Government. While the true boundary remains in doubt by either party, it is difficult to give effect to those measures which are necessary to the protection and quiet of our numerous citizens residing near that frontier. The subject is one of great solicitude to the United States, and will not fail to receive my earnest attention.

“The treaty concluded with *Chili*, and approved by the Senate at its last session, was also ratified by the *Chilian Government*, but with certain additional and explanatory articles of a nature to have required it to be again submitted to the Senate. The time limited for the exchange of the ratifications, however, having since expired, the action of both Governments on the treaty will again become necessary.

BUENOS AYRES.—“The negotiations commenced with the *Argentine Republic*, relative to the outrages committed on our vessels engaged in the fisheries at the *Falkland Islands*, by persons acting under the color of its authority, as well as the other matters in controversy between the two Governments, have been suspended by the departure of the *Chargé d’Affaires* of the United States from *Buenos Ayres*. It is understood, however, that a minister was subsequently appointed by that Government to renew the negotiation in the United States, but, though daily expected, he has not yet arrived in this country.

PERU and BOLIVIA.—“With *Peru* no treaty has yet been formed, and with *Bolivia* no diplomatic intercourse has yet been established. It will be my endeavor to encourage those sentiments of amity and that liberal commerce which belong to the relations in which all the independent States of this continent stand towards each other.”

(11) See vol. 2, page 81*
