





La première crise entre les Etats-Unis et la France

ADAMS (John). MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, accompanying a communication No. 8 from the envoys extraordinary to the French Republic... 18th June 1798. *Philadelphia, Joseph Gales, [1798]*, in-8 de 72 pp., toile moderne. *Reue* €

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Très rare brochure concernant les négociations entre les émissaires américains et Talleyrand lors de la crise franco-américains de 1798.

Immédiatement après avoir succédé à George Washington comme deuxième président des Etats-Unis de 1797 à 1801, John Adams (1735-1826) dut faire face à la crise qui s'envenimait entre son pays et la République française depuis 1794 : la France en guerre contre l'Angleterre interdisait aux pays neutres (dont les Etats-Unis) de faire commerce avec son ennemi et lançait même sa marine et ses corsaires contre les vaisseaux américains qui contrevenaient au boycott contre l'Angleterre. Les relations diplomatiques furent même rompues entre les deux pays en 1797. Pour tenter de rétablir de meilleurs rapports entre le Congrès et le Directoire, John Adams envoya à Paris dès son élection 3 sénateurs en mission extraordinaire, qui se présentèrent le 8 octobre 1797 à Talleyrand, qui venait d'être nommé ministre des relations extérieures du Directoire. Les négociations durèrent 5 mois, sans aboutir. Bien pis, les envoyés américains furent scandalisés par la vénalité de Talleyrand qui leur fit discrètement savoir qu'ils n'obtiendraient rien de lui sans une « gratification » d'un million de francs. Cet épisode peu glorieux, appelé outre Atlantique « The XYZ affair », fit grand bruit chez les Anglo-saxons.

Les négociations furent rompues peu après et les envoyés rappelés aux Etats-Unis. Le 7 juillet 1798 le gouvernement américain dénonça les traités précédemment conclus entre les deux pays et arma des navires contre les vaisseaux français. Ce quasi-état de guerre dura jusqu'en 1800, quand le Premier Consul renonça aux exigences du Directoire.

Il s'agit ici de la transmission au Congrès par le Président John Adams, le 18 juin 1798, du message de Talleyrand (en traduction anglaise) aux envoyés extraordinaires en date du 18 mars précédent et la réponse que ceux-ci lui firent le 3 avril. Le message de Talleyrand est reproduit à la fin dans sa version originale en français.

M E S S A G E

FROM THE

PRESIDENT OF THE UNITED STATES,

ACCOMPANYING A

COMMUNICATION,

No. 8.

FROM THE

ENVOYS EXTRAORDINARY

TO THE

FRENCH REPUBLIC.

*Received at the Office of the Secretary of State on
Thursday the 14th Instant.*

18th June, 1798.

Ordered to lie on the Table.

PRINTED BY ORDER OF THE HOUSE OF REPRESENTATIVES.

Philadelphia:

PRINTED BY JOSEPH GALES,

No. 23, South Third Street.

15046

M E S S A G E

FROM THE

PRESIDENT OF THE UNITED STATES

TO THE SENATE

CONGRESS OF THE UNITED STATES

COMMUNICATION

IN ANSWER TO A RESOLUTION PASSED BY THE

HOUSE OF REPRESENTATIVES, JANUARY 18, 1846

AND TO A RESOLUTION PASSED BY THE SENATE, FEBRUARY 1, 1846

IN RELATION TO THE PROPOSED TREATY OF PEACE WITH MEXICO

AND TO A RESOLUTION PASSED BY THE HOUSE OF REPRESENTATIVES, JANUARY 18, 1846

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IN RELATION TO THE PROPOSED TREATY OF PEACE WITH MEXICO

AND TO A RESOLUTION PASSED BY THE HOUSE OF REPRESENTATIVES, JANUARY 18, 1846

Gentlemen of the Senate, and

Gentlemen of the House of Representatives,

I NOW transmit to Congress the Dispatch, Number 8, from our Envoys Extraordinary to the French Republic, which was received at the Secretary of State's Office, on Thursday the fourteenth day of this month,

JOHN ADAMS.

United States,
June 18, 1798. }

No. 8.

Paris, April 3, 1798.

DEAR SIR,

WE herewith transmit you the copy of a letter written to us by the Minister of Foreign Affairs, dated the 28th Ventose (18th March) and purporting to be an Answer to our Memorial of the 17th of January.

We also send you in this inclosure a copy of our Reply, which has been presented this morning. As soon as we certainly know what steps the French Government mean to pursue in consequence of this Reply, you shall be informed of them.

We remain with great respect and esteem,

Your most obedient servants,

CHARLES COTESWORTH PINCKNEY.

J. MARSHALL.

E. GERRY.

Colonel Pickering,
Secretary of the
United States. }

[TRANSLATION.]

The Minister of Foreign Relations of the French Republic.

To Messrs. CHARLES COTESWORTH PINCKNEY,
J. MARSHALL and E. GERRY.

THE undersigned Minister of Foreign Relations of the French Republic has laid before the Executive Directory the Memorial, which the Commissioners and Envoys Extraordinary of the United States of America have transmitted to him, under the date of 28th Nivose last [17th January, 1798], and it is in execution of the intentions of the Directory, which desires to convince the United States of the true dispositions which animate it with respect to them, that the undersigned communicates to the Commissioners and Envoys Extraordinary the following observations.

The first thing which must excite attention, in the Memorial of the Commissioners and Envoys Extraordinary, is the method which they have thought proper to pursue in the exposition and in the discussion of the points which are in dispute between the two States. The Executive Directory, animated with dispositions the most conciliatory, and penetrated with the interests which should draw the two nations together, as well as eager to concur in the well known wish of the two people to maintain a perfect intimacy, had reason to expect, that the Envoys would have brought, in the name of their Government, dispositions entirely similar, and a temper previously prepared by the same views and the same desires. What must be, after this, the surprize of the Executive Directory, when the undersigned rendered it an account of a Memorial, in which the Commissioners

and Envoys Extraordinary, reversing the known order of facts, have aimed to pass over, as it were in silence, the just motives of complaint of the French Government, and to disguise the true cause of the misunderstanding, which is prolonged between the two Republics! So that it would appear, from that exposition, as partial as unfaithful, that the French Republic has no real grievance to substantiate, no legitimate reparation to demand, whilst the United States should alone have a right to complain, should alone be entitled to claim satisfaction.

The designs which have induced a preference of this course to every other, have not escaped the Executive Directory; and it is as well from a just sentiment of the dignity of the Republic, whose interests are confided to it, as to provide eventually against the views, which may be contemplated by such conduct, that it has charged the undersigned to dispel these empty appearances, which indeed cannot exist when facts shall be re-established and the true intentions of the Directory shall be solemnly made to appear in opposition to those which can be attributed to it only gratuitously, and by taking advantage of its silence.

An incontestible truth, and one which has been entirely passed over in the Memorial of the Commissioners and Envoys Extraordinary, is that the priority of grievances and complaints belonged to the French Republic; that these complaints and these grievances were as real as numerous, long before the United States had the least grounded claim to make, and consequently before all the facts, on which the Envoys rest with so many details, had existed!

Another truth, not less incontestible, is that all the grievances which the Commissioners and Envoys Extraordinary exhibit, with the exceptions, which the undersigned was ready to discuss, are a necessary consequence of the measures which the prior con-

duct of the United States had justified on the part of the French Republic, and which its treaties with the said United States authorized in certain cases, which it depended upon the General Government of the Union to create or not to create.

It would be foreign to the purpose to enter into an enumeration of the complaints which the French Government had room to make against the Federal Government, since the commencement of the war, excited against the French Republic, by a power jealous of its prosperity and its regeneration. These details are contained in the numerous official communications, made at Philadelphia by the Ministers of the Republic, and have been recapitulated by the predecessor of the undersigned, in a note addressed, under the date of 19th Ventose, in the 4th year [9th March, 1796], to the Minister Plenipotentiary of the United States at Paris, and very particularly detailed in the official note of Citizen Adet, dated at Philadelphia, on the 25th Brumaire, in the 5th year [15th November, 1796]. Complaint was made in the above note of the inexecution of the Treaties concluded in 1778, in the only clauses in which France had stipulated some advantages, in return for the efforts which she had engaged to make for the common benefit, and against the insults offered to the dignity of the French Republic.

In fact, from the commencement of the war, the American tribunals have claimed the right to take cognizance of the validity of prizes carried into the ports of the United States by French cruizers. It has resulted from this pretension contrary to the letter of the Treaty of Commerce of 1778, that the property of citizens of the Republic has been unjustly detained, and that French cruising has been totally discouraged in the American seas against an enemy who revived the most barbarous laws of that mode of warfare, to destroy and insult the American

commerce, under the eye of the Federal Government.

That Government did not confine itself to favour the enemies of the French Republic in a point so essential, a point on which in truth some abuses might arise, but which the French Government manifested itself disposed to prevent; it even went so far as to permit enemy's vessels, contrary to the literal meaning of the above Treaty, to put into the ports of the United States after having captured *the property or ships belonging to French citizens*. Soon afterwards a National Corvette, at anchor in the port of Philadelphia,* was seized by order of the Government, and this arrest was afterwards extended even to her Commander. The American tribunals, in like manner, arrested the person of the Ex-Governor of Guadeloupe, for acts of his administration; and it was necessary that the Executive Directory should threaten to make reprisals to put this affair in the course prescribed by the law of nations.

During the whole space of time which has been just reviewed, the French Government made fruitless efforts to induce the Government of the United States, to procure for the Agents of the Republic, the legal means of carrying into effect the clauses of the Consular Convention of 1788, which granted to our navigation and commerce, privileges whose principle was consecrated by the Treaties of 1778; and nothing could ever be obtained in this respect but fruitless references to the tribunals. In general, all matters, which, with intentions sincerely conciliatory, should have been terminated by means of negotiation, were habitually referred to the judicial authorities; and these, whether they were or were not subject to a secret influence, in the end either deprived the Republic of rights founded upon Treaties, or modified their exercise as suited the system of the Government.

Seizure of the Cassus in August, 1795.

Such was the true state of things in the month of August, 1795, the period when the ratification of the Treaty of Amity, Navigation and Commerce, signed at London in the month of November preceding, between the United States and Great-Britain, filled the measure of the grievances of the Republic.

What had been, until then, the conduct of the French Government towards the United States? The undersigned, in order to contrast it with that of the said States, will content himself with recalling facts, which cannot however have been forgotten.

Occupied with the most pressing cares in Europe, the Republic did not direct her attention to the United States, but in order constantly to give them new proofs of the most sincere friendship and interest, and she left it to her Agents amicably to discuss with the Federal Government the controversies which have just been sketched, and which, had they been handled on both sides, in the true spirit of conciliation, could not have altered their good understanding to the present degree. The Republic was hardly constituted, when a Minister was sent to Philadelphia, whose first act was to declare to the United States, that they would not be pressed to execute the defensive clauses of the Treaty of Alliance, altho' the circumstances in the least equivocal manner exhibited the *casus fæderis*. Far from appreciating this conduct, the American Government received it as the acknowledgment of a right; and it is in this spirit also that the Commissioners and Envoys Extraordinary have met this question in the beginning of their memorial. The Minister of the Republic at Philadelphia, having given uneasiness to the American Government, was readily recalled, even with circumstances of extreme rigour. His successor carried to the United States every desirable reparation,

as well as declarations the most friendly and sincere.

Nothing equals the spirit of conciliation, or rather of condescension, in which his instructions were drawn, relatively to all the points which caused any uneasiness in the Federal Government. The Citizen Adet again enforced, in the name of the National Convention, those expressions of good-will; and that Assembly itself received, with the effusion of an unbounded confidence and security, the new Minister, whom the President of the United States sent to it, with the apparent intention of sincerely corresponding with the dispositions, which the Republic had not ceased to profess.

What might appear incredible, is, that the Republic and her alliance were sacrificed at the moment when she thus redoubled her regards for her ally; and that the corresponding demonstrations of the Federal Government had no other object, but to keep her as well as her Government in a false security. And yet it is now known, that at this very period, Mr. Jay, who had been sent to London, solely, as it was then said, to negotiate arrangements relative to the depredations committed upon the American Commerce, by the cruisers of Great-Britain, signed a Treaty of Amity, Navigation and Commerce, the negotiating and signing of which had been kept a profound secret at Paris and at Philadelphia. This Treaty was avowed to our Minister Plenipotentiary only at the last extremity, and it was communicated to him only for form's sake, and after it had received the ratification of the Senate. When the Agents of the Republic complained of this mysterious conduct, they were answered by an appeal to the Independence of the United States, solemnly sanctioned in the Treaties of 1778—a strange manner of contesting a grievance, the reality of which was demonstrated by the dissimulation to which recourse was had—an insidious subterfuge, which substitutes for

the true point of the question, a general principle which the Republic cannot be supposed to dispute, and which destroys, by the aid of a sophism, the intimate confidence, which ought to exist between two allies, and which above all ought to exist between the French Republic and the United States.

If it be difficult to find in this conduct what ought to be expected from a friend, what must be thought of the Treaty itself, and of its provisions? This Treaty is now known to all Europe; and the small majority by which it passed in the two Houses, as well as the multitude of imposing wishes which were expressed by the nation against such an act, bear honorable testimony in favour of the opinion which the French Government has adopted concerning it. The undersigned will not repeat, with respect to this Treaty, what his Predecessor has said of it, in his note of the 19th Ventose, before cited, and in that of the 19th Messidor following, nor what the Minister Plenipotentiary of the Republic at Philadelphia has set forth, at great length, in his official note of the 25th Brumaire. He will content himself with observing summarily, that in this Treaty, every thing having been calculated to turn the Neutrality of the United States to the disadvantage of the French Republic, and to the advantage of England; that the Federal Government having in this act made to Great-Britain concessions, the most unheard of, the most incompatible with the interests of the United States, the most derogatory to the alliance which subsisted between the said States and the French Republic; the latter was perfectly free, in order to avoid the inconveniencies of the Treaty of London, to avail itself of the preservative means with which the law of nature, the law of nations and prior treaties, furnished it.

Such are the reasons which have produced the decrees of the Directory, of which the United States

complain, as well as the conduct of its Agents to the West-Indies. All these measures are founded on the 2d article of the Treaty of 1778, which requires, that, in matters of navigation and commerce, France should always be, with respect to the United States, on the footing of the most favoured nation. The Executive Directory cannot be arraigned, if from the execution of this eventual clause, some inconveniences have resulted to the American flag. As to the abuses which may have sprung from that principle, the undersigned again repeats, that he was ready to discuss them in the most friendly manner.

From this faithful exposition of facts, which have progressively led to the present misunderstanding between the two states, it results as the undersigned has said, in the beginning of this answer, that the priority of grievances belongs to the French Republic, and that such of its measures as may have occasioned the complaints of the United States, are, with some exceptions, the natural consequence of a state of things, which it depended upon them to create, or not create.

If the undersigned should terminate the exposition of the grievances of the Republic with the treaty of London, he would imperfectly fulfil his task: It is his duty to carry his views further. From the moment that the Treaty in question was put into execution, the Government of the United States seemed to think itself freed from the necessity of keeping any measures with the Republic; notwithstanding the reiterated assurance which had been given to its Ministers, that the Treaty would in no respect change the pre-existing state of neutrality of the United States, notice was given in the course of the year 1796, to the French cruisers, that they would no longer, as had been until then practised, be permitted to sell their prizes in the ports of the United States. This decision was rendered by the Federal

Court of Justice, and founded upon the Treaty concluded between the United States and Great-Britain.

The newspapers known to be under the indirect control of the Cabinet, have since the Treaty redoubled the invectives and calumnies against the Republic and against her principles, her magistrates, and her Envoys. Pamphlets, openly paid for by the Minister of Great-Britain, have reproduced, in every form, those insults and calumnies, without a state of things so scandalous having ever attracted the attention of the Government, which might have repressed it. On the contrary, the Government itself was intent upon encouraging this scandal, in its public acts. The Executive Directory has seen itself denounced in a speech delivered by the President in the course of the month of May last (O. S.) as endeavouring to propagate anarchy and division within the United States. The new allies which the Republic has acquired, and who are the same that contributed to the independence of the Americans, have been equally insulted, in the official correspondencies which have been made public, or in the newspapers. In fine, one cannot help discovering in the tone of the speech and of the publications which have been just pointed out, a latent enmity which only waits an opportunity to break out.

Facts being thus established, it is disagreeable to be obliged to think that the instructions, under which the Commissioners have acted, have not been drawn up with the sincere intention of attaining pacific results; because far from proceeding in their Memorial upon some avowed principles and acknowledged facts, they have inverted and confounded both, so as to be enabled to impute to the Republic all the misfortunes of a rupture, which they seem willing to produce by such a course of proceeding. It is evident that the desire plainly declared of sup-

porting at every hazard the Treaty of London, which is the principal grievance of the Republic, of adhering to the spirit in which this Treaty was formed and executed, and of not granting to the Republic any of the means of reparation, which she has proposed, through the medium of the undersigned, have dictated these instructions. It is equally evident, that no hesitation is made in sacrificing to these strange sentiments, those which the Treaties of 1778, and the recollection of the circumstances in the midst of which they were concluded, ought to inspire.

The remote consequences of such conduct have not escaped the attention of the Directory. It is desired, while nothing is omitted to prolong the misunderstanding, and even to augment it, to throw upon the Republic all the odium, in the view of America and of Europe. It is sought to justify by delusive appearances the prejudices with which the name of the Republic is surrounded at pleasure, and the system of exasperation and alienation which is pursued in relation to it, with the most strange obstinacy. It is finally wished to seize the first favorable occasion to consummate an intimate union, with a power, towards which a devotion and partiality is professed, which has long been the principle of the conduct of the Federal Government.

The intentions which the undersigned here attributes to the Government of the United States, are so little disguised, that nothing seems to have been neglected at Philadelphia to manifest them to every eye. It is probably with this view, that it was thought proper to send to the French Republic, persons whose opinions and connections are too well known, to hope from them dispositions sincerely conciliatory. It is painful for the undersigned to be obliged to make a contrast between this conduct, and that which was pursued towards the Cabinet of St.

James, under similar circumstances. An eagerness was then felt to send to London, Ministers well known for sentiments corresponding with the object of their mission. The Republic, it seems, might have expected like deference; and if the same propriety has not been observed with respect to it, it is exceedingly probable, that it is to be attributed to the views above alluded to by the undersigned.

It is impossible to foresee whither such dispositions may lead. The undersigned does not hesitate to believe, that the American Nation, like the French Nation, sees this state of things with regret, and does not consider its consequences without sorrow. He apprehends, that the American People will not commit a mistake, concerning the prejudices with which it has been desired to inspire them against an allied people, nor concerning the engagements which it seems to be wished to make them contract to the detriment of an alliance, which so powerfully contributed to place them in the rank of Nations, and to support them in it; and that they will see in these new combinations, the only dangers their prosperity and importance can incur.

Penetrated with the justice of these reflections and their consequences, the Executive Directory has authorized the undersigned to express himself with all the frankness which becomes the French Nation. It is indispensable, that in the NAME of the Directory he should dissipate those illusions, with which for five years the complaints of the Ministers of the Republic have been incessantly surrounded at Philadelphia, in order to weaken, calumniate, or distort them: it was essential, in fine, that by exhibiting their sentiments in an unequivocal manner, he should clear up all the doubts, and all the false interpretations, of which they might be the object.

It is, therefore, only in order to smooth the way of

discussions, that the undersigned has entered into the preceding explanations. It is with the same view, that he declares to the Commissioners and Envoys Extraordinary, that notwithstanding the kind of prejudice, which has been entertained with respect to them, the Executive Directory is disposed to treat with that one of the three, whose opinions, presumed to be more impartial, promise in the course of the explanations, more of that reciprocal confidence, which is indispensable.

The undersigned flatters himself, that this overture will not meet, on the part of the Commissioners and Envoys Extraordinary, with any serious difficulty. It is still more natural to hope it, because by the tenor of their powers, the said Commissioners and Envoys Extraordinary, are authorized to negotiate jointly or separately: So that nothing but the desire of preventing any accommodation could produce any objection against this measure; which moreover is only pointed out to the Commissioners themselves, in order that nothing may here bear an unfavorable appearance; and which evidently has no other object than to assure to the negotiation an happy issue, by avoiding at the outset every thing which may on either side awaken, in the course of this negotiation, sentiments calculated to endanger it.

The undersigned hopes, that the Commissioners and Envoys Extraordinary will soon enable him to inform the Executive Directory of their determination. Whatever this determination may be, the undersigned flatters himself, that the explanations into which he has entered, will have placed the subjects in dispute in their true light, and may eventually serve to dissipate, in the eyes of all impartial men, the unfavorable impression, which it might be endeavoured to fix upon the intentions of the French Republic and its Government. He concludes by re-

newing to the Commissioners and Envoys Extraordinary the assurance of his consideration.

(Signed)

CH. MAU. TALLEYRAND.

Paris, 28th Ventose, 6th year.

[18th March, 1798.]

Faithfully translated,

JACOB WAGNER.

The Ministers Plenipotentiary and Envoys Extraordinary from the United States of America to the French Republic,

TO THE

MINISTER OF EXTERIOR RELATIONS.

CITIZEN MINISTER,

YOUR letter of the 28th Ventose (18th March) in answer to a Memorial of the undersigned, dated 17th January, was received the day after its date, and has been considered with the most respectful attention.

In that Memorial, the undersigned, without furnishing cause for reproach, might have limited themselves to a statement of the numerous and well-founded complaints of the Nation they represent. They have been induced to extend their observations to other subjects, by that sincere desire to re-establish harmony and mutual confidence between the two

Republics, which the Government of the United States has never ceased to feel and to express. Supposing that those misrepresentations, to which human actions and human sentiments must ever continue to be exposed, might have impressed on the mind of the French Government, occupied with the great and interesting events of Europe, the unfounded suspicion of partiality, on the part of America, for the enemies of France, the undersigned cherished the hope that a complete review of the conduct of their Government, accompanied with a candid and thorough investigation of the real principles on which that conduct was founded, by removing prejudices, might restore sentiments which the United States have ever sought, and still seek to preserve.

In taking this review, it is obvious that a minute discussion of every particular fact might incumber the examination with details which previous explanations had rendered unnecessary, and therefore it was confined to those leading measures of which the particular cases were the necessary result. The undersigned, however, declared, and they still declare, that if the Government of the United States has given just cause of complaint to that of France, in any case, they are ready to consider and to compensate the injury: that negotiation, the opening of which they have for nearly six months unremittingly solicited and patiently attended, would, if entered upon, demonstrate the sincerity of this declaration.

Still animated by the same spirit which has dictated all their efforts to approach this Republic, still searching to remove unfavorable impressions, by a candid display of truths, and a frank manifestation of the principles which have really governed the United States, and still endeavouring thereby to facilitate the restoration of harmony between two nations which ought to be the friends of each other; the undersigned will lay before you the result of their reflections on your letter of the 28th Ventose.

Whatever force you may please to allow to their observations, the relative situation of the two Republics, it is hoped, will not fail to convince you that they proceed from the most perfect conviction of their justice. You contend, Citizen Minister, that the priority of complaint is on the side of France, and that those measures which have so injured and oppressed the people of the United States, have been produced by the previous conduct of their Government.

To this the undersigned will now only observe, that if France can justly complain of any act of the Government of the United States, whether that act be prior or subsequent to the wrongs received by that Government, a disposition and a wish to do in the case what justice and friendship may require is openly avowed, and will continue to be manifested.

Your complaints against the United States may be classed under three heads.

1st. The inexecution of their Treaties with France.

2dly. The Treaty of Amity, Commerce and Navigation formed with Great-Britain.

3dly. The conduct of their Government since that Treaty.

If the undersigned shall be disappointed in their hope to convince you, that on no one of these points can their Government be justly inculpated, yet they persuade themselves that the demonstration of the good faith and upright intention with which it has ever acted, will be complete and satisfactory. This being proved, and a tender of compensation for any unintentional wrong being made, a base for accommodation is offered, which we must yet hope will be acceptable to France.

1st. The inexecution of the Treaties between the United States and France. Under this head, you complain, first—That from the commencement of

the war, the American tribunals have in effect, pretended to the right of taking cognizance of the validity of prizes brought into the ports of the United States.

2dly. That against the textual sense of the Treaty, the Government has permitted the ships of the enemy to come to in their ports, after having captured property or vessels belonging to French citizens.

3dly. That it has ordered the arrest of a National Corvette, anchored in the port of Philadelphia, and that the arrestation has extended to the Captain Commandant.

4thly. The refusal to provide the means to execute the Consular Convention.

These complaints shall be considered in the order in which they are made.

1st. From the commencement of the war, the American tribunals have in effect, pretended to the right of taking cognizance of the validity of prizes, brought into the ports of the United States by French cruizers.

You have not been pleased to state a case, in which this right has been asserted, and the undersigned are persuaded that no such case exists.

Far from asserting it, the Government of America has expressly disclaimed it. Mr. Jefferson, the then Secretary of State, in his letter to Mr. Morris of the 16th August, 1793, which letter was laid before the French Government, declares "that the United States do not pretend any right to try the validity of captures made on the *high seas* by France, or any other nation, on its enemies.

These questions belong of common usage, to the sovereign of the captor, and whenever it is necessary to determine them, resort must be had to his Courts. This is the case provided for in the 17th article of the Treaty, which says, that such prizes shall not be arrested, nor cognizance taken of the validity thereof; a stipulation much insisted on by Mr. Genet and the

Consuls, and which we never thought of infringing or questioning."

Mr. Randolph, the successor of Mr. Jefferson, in his letter to Mr. Fauchet, of the 29th May, 1795, says, "As to prizes made by legal cruizers on the *high seas*, it never was the intention of the President to interpose, he having abstained (as the 17th article of our Treaty of Commerce imports) from examining into their lawfulness."

Mr. Munroe, in his letter to your predecessor, of the 15th March, 1796, says, "You will observe, I admit the principle, if a prize was taken upon the *high seas*, and by a privateer fitted out within the Republic or its dominions, that in such case, our Courts have no right to take any cognizance of its validity. But is any case of this kind alledged? I presume none is or can be shewn."

But the United States have deemed it an indispensable duty to prevent, so far as they could prevent, the practice of hostility against Nations with whom they were at peace, within their own limits, or by privateers fitted out in their own ports.

For the reasoning of their Government in support of this decision, the undersigned will again refer to the letter of Mr. Jefferson already quoted.

"Another doctrine advanced by Mr. Genet is, that our Courts can take no cognizance of questions whether vessels held by them as prizes are lawful or not: that this jurisdiction belongs exclusively to their Consulates here, which have been lately erected by the National Assembly into complete Courts of Admiralty.

"Let us consider first, what is the extent of the jurisdiction which the Consulates of France may rightfully exercise here. Every nation has, of natural right, entirely and exclusively, all the jurisdiction which may be rightfully exercised in the territory it occupies. If it cedes any portion of that jurisdiction to Judges appointed by another nation, the limits of their power must depend upon the

instrument of cession. The United States and France have by their Consular Convention, given mutually to their Consuls jurisdiction in certain cases especially enumerated. But that Convention gives to neither the power of establishing complete Courts of Admiralty, within the territory of the other, nor even of deciding the particular question of prize or not prize. The Consulates of France then, cannot take judicial cognizance of those questions here.

" Of this opinion Mr. Genet was when he wrote his letter of May 27th, wherein he promises to correct the error of the Consul at Charleston, of whom in my letter of the 15th I had complained as arrogating to himself that jurisdiction; though in his subsequent letters he has thought proper to embark in the errors of his Consuls.

" The real question is, whether the United States have not a right to protect vessels within their waters, and on their coasts? The Grange was taken within the Delaware, between the shores of the Jerseys and of the Delaware State, and several miles above its mouth. The seizing her was a flagrant violation of the jurisdiction of the United States. Mr. Genet, however, instead of apologizing, takes great merit, in his letters, for giving her up. The William is said to have been taken within two miles of the shores of the United States. When the Admiralty declined cognizance of the case, she was delivered to the French Consul, according to my letter of June 25th, to be kept until the Executive of the United States should examine into the case, and Mr. Genet was desired, by my letter of June 29th, to have them furnished with the evidence on behalf of the captors, as to the place of capture: yet to this day it has never been done. The brig Fanny was alledged to be taken within five miles from our shore: the Catharine within two miles and an half. It is an essential attribute of the jurisdiction of every country to preserve peace and punish acts in breach of it, and to restore pro-

perty taken by force within its limits. Were the armed vessel of any nation to cut away one of our own from the wharves of Philadelphia, and to chuse to call it a prize, would this exclude us from the right of redressing the wrong? Were it the vessel of another nation, are we not equally bound to protect it while within our limits? Were it seized in any other waters or on the shores of the United States, the right of redressing it is still the same: and humble indeed would be our condition were we obliged to depend for that on the will of a foreign Consul, or on any negociation with Diplomatic Agents. Accordingly this right of protection within its waters, and to a reasonable distance on its coasts, has been acknowledged by every nation and denied to none; and if the property seized be yet within their power, it is their right and duty to redress the wrong themselves.

“ France herself has asserted the right in herself, and recognized it in us, in the 6th article of our Treaty, where we mutually stipulate, that we will *by all the means in our power* (not by negociation) protect and defend each other's vessels and effects in our ports or roads, or on the seas near our countries, and recover and restore the same to the right owners. The United Netherlands, Prussia and Sweden, have recognized it also in Treaties with us; and indeed it is a standing formule inserted in almost all the Treaties of all nations, and proving the principle to be acknowledged by all nations.”

In the letter of Mr. Randolph to Mr. Fauchet, already cited, that Gentleman resumes this subject, and Mr. Fauchet in answer to him says, “ The Admiralty Courts have always ceded to the intreaties of our enemies for their intervention in prize causes; in truth, frequently and almost constantly, by using the double plea of which you spoke to me; that is to say, by arguing either of seizure within the jurisdictional line of the United States, or of armament or

augmentation of armanent of the capturing vessels, in their ports. On this subject, Sir, you request me to specify a circumstance where a prize was arrested, which did not come under that denomination, and you take the trouble to establish, that they have a right to intervene in every case that can be brought under those heads. In the first place, Sir, I never have, at least to my recollection, contested the right of your Courts, or of the Government, to interfere in matters of the nature of those you mention."

It would seem to be incontestible, that the principle asserted by the United States, which indeed is an unquestionable principle, has been admitted in its utmost latitude by France. It is believed that in the execution of this principle, the Government and tribunals have only been guided by a sense of duty and the obligations of justice. If in any case that can be selected, wrong has unintentionally been committed, that wrong has grown inevitably out of the situation of the United States, out of the conduct of persons they have been unable to controul, and will with readiness be corrected.

2dly. That against the textual sense of the Treaty, the Government has permitted the ships of the enemy to come to in their ports, after having captured property or vessels belonging to French citizens.

It is to be regretted, that you have not been pleased to state some particular case, if the case be founded on a fact, which has manifested this permission; or if it be founded in principle, the precise difference between the construction given by the President of the United States to the article of the Treaty of the 6th February, 1798, relative to this subject, and that for which you may contend. For the want of such a guide, the undersigned may discuss unnecessary points, without giving you complete satisfaction on that which in your mind may constitute the real difficulty.

The 17th article is in these words, " It shall be lawful for the ships of war of either party and privateers freely to carry whithersoever they please the ships and goods taken from their enemies, without being obliged to pay any duty to the officers of the admiralty or other judges ; nor shall such prizes be arrested or seized when they come to or enter the ports of either party, nor shall the searchers, or other officers of these places, search the same, or make examination concerning the lawfulness of such prizes ; but they may hoist sail at any time and depart, and carry their prizes to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to shew : on the contrary, no shelter or refuge shall be given in their ports to such as shall have made prize of the subjects, people or property of either of the parties ; but if such shall come in, being forced by stress of weather or the dangers of the sea, all proper means shall be vigorously used that they go out and retire from thence as soon as possible."—Do you contend, citizen minister, that this article ought to be rigidly construed according to its letter ? If you do, it becomes necessary to ascertain what are the disabilities to which its letter really subjects the vessels belonging to the enemies of France. They are, 1st. That no shelter or refuge shall be given in the ports of the United States to the ships of war or privateers belonging to the enemy, *which shall have made prize* of the subjects, people or property of France.—2dly. That if such ships of war or privateers shall come in, being forced by stress of weather or the danger of the seas, all proper means shall be vigorously used that they go out and retire from thence as soon as possible.

The letter of the article does not exclude generally the ships of war belonging to the enemy, but those only *which have made prize* of the subjects, peo-

ple or property of France. That the vessel shall have made a prize is a part and an essential part of the description. Whether the vessel be or be not within this description is a fact, the ascertainment of which must precede the measures to be taken in consequence of that fact. When the fact shall have been ascertained, the letter of the article denies refuge or shelter to the ship of war or privateer, but not to the prize which may have been made. You well know, citizen minister, that if the letter of the article is to be set up against its spirit, when the former is most favourable to the views of France, the letter must still be adhered to, though it should counteract those views. The situation of the United States bound them to observe, between the belligerent powers, an exact neutrality, in all cases where their previous treaties had not stipulated advantages or imposed disabilities.

They could not refuse to one belligerent power those rights of ordinary hospitality which were enjoyed by others, which the common usages of nations permit, and which were forbidden by no particular treaty. Such refusal would have been manifestly partial, and a plain departure from that neutral position in which the United States found themselves, and which good faith, integrity and their best interests impelled them religiously to maintain.—Thus circumstanced it was the duty of the government to give its true construction to a treaty granting advantages to one of the belligerent powers, and imposing disabilities on another. In searching for this true construction, its best judgment ought to be exercised, and the dictates of that judgment ought to be obeyed. The United States have done so. They have refused shelter in their ports to the prizes made on the French Republic, or to the ships of war be-

longing to the enemy and accompanying such prizes.

They have permitted ships of war, not bringing prizes with them, to remain in their ports, without instituting tribunals to enquire whether such ships have at any time captured French cruizers or French property. The reasoning on which this decision was founded, and which appears to the undersigned to have been conclusive, will not now be repeated. It has been detailed in several letters from the Secretary of State of the United States to the Minister of France in Philadelphia.—The undersigned will only observe that the construction supposed to be just, and for that reason actually put upon the article, is believed to be more favourable than the literal construction to the interests of France.

Ships of war which have made prizes on this republic, if they enter the ports of the United States without such prizes, ought indeed, under the letter of the article, to be ordered to depart as soon as the fact can have been ascertained; but the prizes themselves are permitted to remain in safety. By the actual construction, a ship of war entering without a prize, is permitted to remain, but all shelter is refused to a ship of war which is accompanied by a prize, and also to the prize itself. It would seldom happen that a ship of war not driven in by stress of weather, or the dangers of the seas, would wish to continue in port longer than the time which would unavoidably be consumed in ascertaining the fact of her having made a prize, but it must often happen that a prize now excluded from the ports of the United States, would find shelter in them if the literal construction of the treaty should be adopted.

This exposition given by the United States to this article was made known in 1793—France has never signified a wish that the literal construction

throughout should be pursued: This strengthens the opinion entertained by the undersigned, that the rule on this subject, so early established by the American government, is considered by the Republic as more favorable to its interests, than a rule conforming entirely to the letter of the article.

3dly. "The government of the United States has ordered the arrest of a national corvette* anchored in the port of Philadelphia, and the arrestation has been extended to the Captain Commandant."

The undersigned beg leave to state the case which is the foundation of this complaint. In the statement itself they trust will be found a complete justification of the conduct of the United States.

The *Cassius*, under the name of "*les Jumeaux*," was fitted and armed for a vessel of war in the port of Philadelphia, in violation of a law of the United States. In December, 1794, having escaped from the port to descend the river, orders were given to the militia of the State of Delaware to intercept her. The attempt was made and failed. The crew of *les Jumeaux*, which was unexpectedly found to be very numerous, resisted the officers who went on board, manned their cannon and brought them to bear on the cutter in which the militia, about forty in number, were embarked. Their force being inadequate to the enterprize, they retired with an intention to return the next day with a reinforcement. They did so, but *les Jumeaux* had sailed and gone to sea. The Agent, Mr. Guenet, by whom *les Jumeaux* had been fitted out, was tried at the Circuit court in Philadelphia, convicted of the offence, and received sentence of fine and imprisonment.

Les Jumeaux proceeded to St. Domingo; Samuel Davis, a citizen of the United States, there took

* *Le Cassius*.

the command of her, with a commission from the French Government. Davis probably sailed from Philadelphia in les Jumeaux, for the purpose of finally taking the command of her. Her name was now changed to "le Cassius," and on a cruize she took a schooner called the William Lindsay, belonging to Messrs. Yard and Ketland of Philadelphia, Mr. Ketland having purchased an interest in her after her sailing. The schooner and her cargo were condemned as prize at St. Domingo. In August, 1795, Capt. Davis, commanding the Cassius, came with her to Philadelphia; she was immediately known. Mr. Yard, with a view of obtaining an indemnification for the loss of the schooner and her cargo, libelled the Cassius in the District Court, and caused the captain to be arrested. Soon after, the Supreme Court being in session, Capt. Davis' counsel applied for and obtained a prohibition to the District Court to stop its proceedings, by which the suits both against him and le Cassius were defeated. The prohibition was granted on this principle, That the trial of prizes taken without the jurisdiction of the United States, and carried to places within the jurisdiction of France for adjudication, by French vessels, and all questions incidental to it, belong exclusively to the French tribunals; and consequently that its vessels of war, and their officers, are not liable to process of our Courts, predicated upon such capture and subsequent proceeding within the jurisdiction of the French government.

Messrs. Yard and Ketland having failed to obtain indemnification in this mode, procured new process, on the information of Mr. Ketland, to be issued from the Circuit Court, by which le Cassius was attached as a vessel armed and equipped as a ship of war, in the port of Philadelphia, with intent to cruize and commit hostilities against nations with

whom the United States were at peace, in violation of the act of Congress prohibiting such armament. Mr. Adet complained that the process was taken out of the Circuit Court; because, as he alledged, it had no jurisdiction, and that it would be attended with delay, that Court sitting but twice a year; whereas the District Court, in which it was said the prosecution, if at all permitted, should have been commenced, was always open. Gentlemen of legal knowledge were consulted on the point of jurisdiction in this case, and they were decided in their opinion, that the Circuit Court had jurisdiction, and exclusively of the District Court. The government of the United States had no part in originating this prosecution; and the District Attorney, in behalf of the United States, took measures, at each term of the Circuit Court, to prepare the cause for trial, and on a plea calculated to defeat the prosecution. At length, in October term, 1796, the cause was brought to an hearing. In the course of the argument, the question of jurisdiction presented itself. The Court adjourned until next day to consider of it, and the following morning dismissed the suit.

The undersigned may be permitted to ask, whether in a change of situation, placing France precisely in the circumstances of the United States, either the corvette or her captain would have escaped.

4thly. The refusal to provide the means to execute the Consular Convention of the 14th November, 1788.

As you have not selected the particular parts of this Convention supposed to remain unexecuted, the undersigned must necessarily consider the more definite charges heretofore made on the same subject as being adopted by you.

Your predecessor in office, in his letter to Mr.

Monroe of the 19th Ventose 4th year (9th March 1796) complains 1st, That the clause granting to French consuls the right of judging exclusively in disputes between Frenchmen, is become illusory for the want of laws giving them the means of having their decisions executed.

2dly. The right of causing mariners who desert to be arrested, is rendered ineffectual, because the judges charged by the laws with issuing the mandates of arrest have lately required the presentation of the original roll of the crew, in contempt of the 5th article admitting, in the tribunals of both powers, copies certified by the consul.

It is then understood to be required,

1st. That the officers of the United States should execute the judgments of the consuls :

2dly. That the judges of the United States should issue mandates of arrest against persons charged with being deserters, without a view of the original roll of the crew.

It is very justly observed by Mr. Jefferson, in his letter to Mr. Morris which has been already cited, that, "every nation has, of natural right, entirely and exclusively all the jurisdiction which may be rightfully exercised in the territory it occupies. If it cedes any portion of that jurisdiction to judges appointed by another nation, the limits of their power must depend upon the instrument of cession." The parties to the convention profess its object to be, to define and establish in a reciprocal and permanent manner the functions and privileges of consuls and vice-consuls.

It is to be expected then, as well from the intention of the convention establishing the tribunal, as from the nature of the tribunal itself, which is a foreign court, constituted by a foreign authority, governed by foreign laws, and amenable for its conduct to a

foreign government, that no power is to be implied, and that it possesses no capacity, which is not expressly given to it. To ascertain then the precise extent of the stipulation, let the convention itself be considered.

The first point rests exclusively on the 12th article which is in these words. " All differences and suits between the subjects of his most Christian Majesty in the United States, or between the citizens of the United States within the dominions of the most Christian King, and particularly all disputes relative to the wages and terms of engagement of the crews of the respective vessels, and all differences, of whatever nature they may be, which may arise between the privates of the said crews, or between any of them and their captains, or between the captains of different vessels, of their nations, shall be determined by the respective consuls and vice consuls, either by a reference to arbitrators, or by a summary judgment, and without costs. No officer of the country civil or military, shall interfere therein, or take any part whatever in the matter : and the appeals from the said consular sentences shall be carried before the tribunals of France or of the United States to whom it may appertain to take cognizance thereof."

In this article no engagement is made to furnish the means of executing consular judgments. If therefore the preceding positions be just, there is an end of the question. But other arguments present themselves in support of the construction contended for by the United States. The consular authority in a foreign country, is usually either voluntary or enforced by the laws of the nation to which the consuls belong, and which may bind their own citizens or subjects under penalties to be inflicted on their return, or otherwise. Upon this idea it was sufficient to stipulate a permission of the jurisdiction in exclu-

sion of the courts of the country, or any other idea; it would have been necessary to have stipulated explicitly and perhaps in detail the manner in which its sentences should be executed. To accede to the demands of France would be to erect in a foreign country complete courts of justice with effectual process to compel the appearance of parties and witnesses, and to execute their decisions. And as the transactions in commerce could not in the nature of things be confined to foreigners alone, the citizens of the country must often be necessary witnesses to those transactions, and of course rendered amenable to this foreign jurisdiction in their own country; whereas the jurisdiction granted by the article, is only of French consuls over French citizens in the United States, and reciprocally of American consuls over the citizens of the United States in France. This would be to extend, by implication, the authority of a foreign [Government] over persons not contemplated by the treaty as subject to it. The article declares too, "that no officer of the country, civil or military, shall interfere therein, or take any part in the matter." But sheriffs, marshalls and their deputies, or any other persons appointed by and acting under the laws of the country, are "officers of the country," and consequently cannot aid in the execution of consular decisions, because they are expressly forbidden "to interfere therein or take any part whatever in the matter."

But was it meant that the laws should give consuls the power to appoint such executive officers of their own nation? Should it be conceded that a person so appointed could not be considered as an officer of that nation by virtue of and according to whose laws he held his office, still we find no such thing in the convention. On the contrary in the case of deserters from vessels, mentioned in the 9th, article, whom



the consuls are authorized to cause to be arrested, they are expressly directed to apply in writing to the "courts, judges, and officers competent" to make the arrests, meaning the courts judges and officers of the country where the consuls reside. In addition to this, if power could be given to consuls to appoint officers to execute their decisions, these officers must of course have their fees of compensation to be paid by one or other of the parties. But the article giving the jurisdiction declares that the consular judgments shall be "without costs."

The second complaint is, that the judges of the United States have required the exhibition of the *original* roll of the crew as the testimony which would authorize the issuing of a mandate, to apprehend a French mariner charged as a deserter.—The right to require these mandates is founded entirely on the 9th article of the consular convention.

That declares "that the consuls and vice consuls 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 or ship's roll*, 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."

It would be an idle waste of time to attempt to prove to you, citizen minister that *the register of the vessel or ship's roll*, is not a copy of that paper, or that a copy does not satisfy a law which peremptorily requires the exhibition of the original. Your predecessor has thought proper to refer to the 5th article of that instrument; but a slight perusal of that article will convince you, citizen minister, that it does not apply to the case. When the judges of the United States determined that the mandate of arrest could not be issued on the exhibition of a "copy of

the register of the vessel or ship's roll," they did not so decide for the purpose of giving effect to the system of the government, but because the treaty was clearly understood by them positively to require the presentation of the original.

The undersigned regret, citizen minister, that your researches concerning the United States have not extended to their courts. You would have perceived and admired their purity. You would have perceived that America may repose herself securely on the integrity of her judges, and your justice would have spared the insinuations concerning them which have closed this part of your letter.

The undersigned will now consider what you have stated with respect to the treaty of amity, commerce and navigation, formed with Great Britain.

You complain, citizen minister, in very strong terms, of the deception alledged to have been practised with respect to the objects of Mr. Jay's mission to London, and also of the contents of the treaty which that mission produced. You are pleased to observe that it was then said, that Mr. Jay had been sent to London *only* to negotiate arrangements relative to the depredations committed on the American commerce by the cruizers of Great Britain.

By whom, citizen minister, was this said? not by the President in his message to the Senate, announcing the nomination of Mr. Jay; nor by the then Secretary of State, in communicating to Mr. Fauchet the subject of that mission. The documents with respect to this assertion have been stated and have been fully commented on. It has been fully demonstrated that the American government did not seize this occasion to practise a deception so unnecessary, so foreign to its well known character, and which could produce only mischief to itself. As you have in no degree weakened the testimony which

is relied on as disproving the allegation, or produced any sort of evidence in support of it, the undersigned cannot but mingle some degree of surprize with the regrets they feel at seeing it repeated, accompanied with the charge of that "dissimulation," of which all who examine well the conduct of the government of the United States will so readily pronounce it to be incapable. You also criminate the secrecy which attended this negociation. To this complaint, when formerly insisted on, it was answered, that so much of it as was material to this republic was immediately communicated to her minister; and that she had no right to enquire further, or to be dissatisfied that other objects were not disclosed: That it is not the practice of France, nor of any other nation, to communicate to others the particular subjects of negociation which may be contemplated; and that no nation could be independent which admitted itself to be accountable to another for the manner in which it might judge proper to regulate its own concerns on points in which that other was not interested; or which was bound to give previous intimation of every article which might be inserted in a treaty formed on the avowed principle of leaving in full force all pre-existing engagements. This reasoning is answered only by terming it a "sophism," "an insidious subterfuge." May not any reasoning, on any subject, be answered in the same manner? But can such an answer impair its force? Without doubt, citizen minister, the government of the United States, when it informed France that the negociations of Mr. Jay would not in any respect weaken its engagements to this republic, would have added, that they might eventually extend to a commercial treaty, if it had been supposed that the omission to give such information could really be considered as a breach of legitimate obli-

gation, or as an evidence of diminished friendship. The information was most probably not given, because it was unusual, and because it could neither be considered as proper, as necessary, or as material. The undersigned trust that the painful and unavailing discussions on this subject, rendered so unpleasant by the manner in which it has been treated, will never again be renewed.

Passing to the treaty itself, you say that the small majority by which it was sanctioned in the two houses of Congress, and the number of respectable voices raised against it in the nation, depose honorably in favor of the opinion which the French government has entertained of it. But you must be sensible, Citizen Minister, that the criterion by which you ascertain the merits of the instrument in question, is by no means infallible, nor can it warrant the inference you draw from it. In a Republic like that of the United States, where no individual fears to utter what his judgment or his passions may dictate, where an unrestrained press conveys alike to the public eye the labors of virtue, and the efforts of particular interests, no subject which agitates and interests the public mind can unite the public voice, or entirely escape public censure. In pursuit of the same objects a difference of opinion will arise in the purest minds, from the different manner in which those objects are viewed; and there are situations in which a variety of passions combine to silence the voice of reason, and to betray the soundest judgments. In such situations, if the merit of an instrument is to be decided, not by itself, but by the approbation or disapprobation it may experience, it would surely be a safer rule to take as a guide the decision of a majority, however small that majority may be, than to follow the minority. A treaty too may be opposed as injurious to the Unit-

ed States, though it should not contain a single clause which could prejudice the interests of France. It ought not to be supposed that a treaty would for that reason be offensive to this Republic.

Had you been pleased to state any objections to this instrument drawn from the compact itself, the undersigned would have given to those objections the most serious and respectful consideration. But it is supposed that you adopt, without adding to, the complaints made by your predecessor and by Mr. Adet, when you observe, that you will not repeat what they have said. These complaints have been amply discussed in the memorial the undersigned had the honor to transmit you, bearing date 17th of January. It is believed to have been demonstrated that the stipulations complained of do not in the most remote degree wound the interests of France, affect the pre-existing engagements of the United States, or change their situation in relation to the belligerent powers. Such, incontestably, was and is the opinion of the American government, and in this opinion only would the treaty have been agreed to. As no one of the arguments which have at various times been urged on this subject on the part of the United States, has ever yet been noticed, the undersigned deem unnecessary any attempt to re-urge or to strengthen them. You say that you will content yourself "with observing summarily, that in this treaty every thing having been provided to turn the neutrality of the United States to the disadvantage of the French Republic, and to the advantage of England; that the Federal government having in this act made to Great Britain concessions the most unheard of, the most incompatible with the interests of the United States, and the most derogatory from the alliance which existed between the said States and the French

Republic, the latter was perfectly free to avail itself of the preservatory means with which it was furnished by the laws of nature and of nations, and by its anterior treaty for the purpose of parrying the inconveniences of the treaty of London. Such are the reasons which have determined the arrêtés of the directory of which the United States complain, as well as the conduct of its agents in the antilles." But you have not shewn a single provision, "which turns the neutrality of the United States to the disadvantage of the French Republic and to the advantage of England." You have not shewn a single concession "incompatible with the interests of the United States," or "derogatory from their alliance with France."

It is considered as having been demonstrated, that this treaty leaves the neutrality of the United States, with respect both to France and England, precisely in its former situation, and that it contains no concessions which are either unusual, or derogatory from their alliance with this republic. But if in forming this judgment the American government has deceived itself, still it ought to be remembered that it has ever manifested a readiness to place France on the footing of England, with respect to the articles complained of.

You suppose that the 2nd article of the treaty between France and the United States justifies the arrêtés, of which the latter power complains: But that article only entitles either of the contracting parties to a participation of any particular favor in respect of commerce or navigation which might thereafter be granted by the other to other nations, on allowing the same compensation, if the concession was conditional. It has never been pretended to extend to preëxisting rights held and exercised under the law of nations, and barely recognized by

any subsequent treaty. If this could be insisted on, still, it was shewn incontestibly by the undersigned, that the *arrêté* particularly complained of, so far as it professes to found itself on the treaty with England, greatly transcends that treaty, and in its most noxious article, that requiring a *role d'équipage*, has no relation to it. This all essential circumstance you have not been pleased to notice; and it is with infinite regret the undersigned observe, that the discussions at which you hint are to be limited to the abuses of the principle established by the *arrêté*, and not extended to the compatibility of the principle itself, with justice, the laws of nations, or existing treaties.

It is well known that such a discussion, if indeed the undersigned could be permitted to enter upon it, would avail but little, since the vast mass of American property captured by the cruizers, and condemned by the courts of France, has been found in vessels not furnished with a *role d'équipage*.

The undersigned have been minute in their attention to every syllable you have uttered on this interesting subject, because it has been often considered as having given cause of just irritation to France, and they are sincerely desirous of probing to the bottom every subject which may have assumed that complexion. Their wish is unaffected, to give to every complaint its real value, in order thus to prepare the way for accommodation, by the relinquishment of such as are not well founded, and the admission of those which have a real existence.

The third head of your complaints relative to the conduct of the government of the United States since their treaty with England.

You observe, that as soon as the treaty in question had been put in execution, the government of

the United States seemed to think itself dispensed from the observance of any measures towards this Republic, and you adduce in support of this general observation,

1st. The refusal to permit in the ports of the United States the sale of prizes made by French cruizers.

2dly. The invectives and calumnies against the French government, its principles and its officers, contained in certain journals and pamphlets published in the United States, &c.

3dly. The speech of the President to Congress in May last.

1st. The government of the United States does not permit the sale in their ports of prizes made upon England by the cruizers of France.

The fact is admitted. To erect it into an offence, it becomes necessary to prove that this measure violates either the engagements or the neutrality of the United States. Neither is attempted. To show that it violates neither, had this been rendered necessary, would by no means have been deemed an arduous task. It will now only briefly be observed, that the 17th article of the treaty of commerce of the 6th of February 1778, which alone relates to this subject, so far from stipulating for the sale of prizes in the ports of either nation, limits itself to a declaration, that the captors shall have liberty to bring them into port, free from duties, arrests and searches, and to depart with them to the places expressed in their commissions, thereby evidently contemplating the then existing regulations of this nation. France has manifested her own opinion on this subject, in her treaty with Great Britain of the 26th of September 1786. The 16th article of that treaty declares "that it shall not be lawful for foreign cruizers who shall not be the subjects of one or the other crown, and who shall have a commission from

any prince, or state, enemies of the one or the other, to arm their vessels in the ports of one or the other of the said two kingdoms, *to sell there what they shall have taken, or to change the same in any manner whatever.*" In a war with England then, France being neutral, the cruisers of the United States are forbidden to sell their prizes in the ports of this Republic. The 17th article of the treaty of February 1778, being reciprocal, France has pronounced her decision, that it does not give her cruisers a right to sell their prizes in the ports of America. If this right had been given by the treaty of February 1778, that between the United States and England could not be construed to impair it. Nor is the prohibition a departure from the neutrality of the United States. A nation to violate its neutrality must manifest a partiality for one of the belligerent powers, must accord favours not stipulated by pre-existing treaties to one which it refuses to the other. This is not even alledged in the present instance. Far from permitting British cruisers to sell in the United States prizes they have made on the French, they are not even allowed to bring them into port. A candid consideration of this subject will prove that the withdrawal of a favor, the grant of which manifested so strongly the attachments of the United States, far from justifying the resentments which have been expressed in consequence of it, can only be attributed to the solicitude of the American government to render perfectly unexceptionable its observance of that neutrality which it professes to maintain. It has been shown unequivocally to have been the opinion of the contracting parties, that the treaty of commerce of the 6th of February 1778, did not give to either, being at war, a right to sell its prizes in the ports of the other being at peace. It is not pretended that this is one of the rights accruing without special stipulation under the laws and usages of nations.

It is not then a right at all. If granted it is a voluntary favor. But a voluntary favor essential in the prosecution of the war, if granted by a neutral to one belligerent power and of necessity refused to the other, affords to that other at least a more plausible pretext for complaint than has been given by any other act of the government of the United States. What, in such a situation, would have been the language of France? Would this Republic permit a neutral nation, not bound thereto by any obligation whatever, to allow in its ports as a voluntary favor the sale of prizes made on French citizens, while the same favor was of necessity denied to the cruizers of France.

It is believed that such an use of neutrality would not be permitted, and the undersigned felicitate themselves and their country that the government they represent has never intentionally given to this republic any cause of dissatisfaction as serious as this would have been. You will not fail to observe, Citizen Minister, that this heavy accusation, when analysed, is nothing more than the refusal of a mere favor on the part of the American government, the grant of which might have been dangerous to itself, might have drawn it from that neutral station which it is its duty to observe, and which favor France had previously, in the most explicit terms, declared its determination not to grant under similar circumstances to the United States.

2dly. Your second allegation is, "that the journals known to be indirectly under the control of the cabinet have redoubled their invectives and calumnies against the Republic, its magistrates and its envoys; and that pamphlets openly paid for by the minister of Great Britain have reproduced, under every form, those insults and calumnies without having ever drawn the attention of the government to a

state of things so scandalous, and which it might have repressed."

The genius of the Constitution, and the opinions of the people of the United States, cannot be overruled by these who administer the government. Among those principles deemed sacred in America; among those sacred rights considered as forming the bulwark of their liberty, which the government contemplates with awful reverence, and would approach only with the most cautious circumspection, there is no one of which the importance is more deeply impressed on the public mind than the liberty of the press. That this liberty is often carried to excess, that it has sometimes degenerated into licentiousness, is seen and lamented; but the remedy has not yet been discovered. Perhaps it is an evil inseparable from the good with which it is allied: perhaps it is a shoot which cannot be stripped from the stalk, without wounding vitally the plant from which it is torn. However desirable those measures might be which might correct without enslaving the press, they have never yet been devised in America. No regulations exist which enable the government to suppress whatever calumnies or invectives any individual may chuse to offer to the public eye; or to punish such calumnies and invectives, otherwise than by a legal prosecution in courts which are alike open to all who consider themselves as injured. Without doubt this abuse of a valuable privilege is matter of peculiar regret when it is extended to the government of a foreign nation. The undersigned are persuaded, it never has been so extended with the approbation of the government of the United States. Discussions respecting the conduct of foreign powers, especially on points respecting the rights and interests of America, are unavoidably made in a nation where public measures are the results of public opinion; and cer-

tainly do not furnish cause of reproach; but it is believed that calumny and invective have never been substituted for the manly reasoning of an enlightened and injured people, without giving pain to those who administer the affairs of the Union. Certainly this offence, if it be deemed by France of sufficient magnitude to be worthy of notice, has not been confined to this Republic. It has been still more profusely lavished on its enemies, and has even been bestowed with an unsparring hand on the Federal Government itself. Nothing can be more notorious than the calumnies and invectives with which the wisest measures and the most virtuous characters of the United States have been pursued and traduced. It is a calamity incident to the nature of liberty, and which can produce no serious evil to France. It is a calamity occasioned neither by the direct or indirect influence of the American government. In fact, that government is believed to exercise no influence over any press. You must be sensible, Citizen Minister, with how much truth the same complaint might be urged on the part of the United States. You must know well, what degrading and unworthy calumnies against their government, its principles and its officers, have been published to the world by French journalists and in French pamphlets: That government has even been charged with betraying the best interests of the nation, with having put itself under the guidance of—nay more, with having sold itself to a foreign court. But these calumnies, atrocious as they are, have never constituted a subject of complaint against France. Had not other causes, infinitely more serious and weighty, interrupted the harmony of the two Republics, it would still have remained unimpaired, and the mission of the undersigned would never have been rendered necessary.

3dly. You complain of the speech of the President made to Congress in May last. It denounces,

you say, the Executive Directory, as searching to propagate anarchy and division in the United States. The Constitution of the United States imposes on the President this important duty: "He shall, from time to time, give to the Congress information of the state of the Union." It having been deemed proper to recall the Minister from the United States to this Republic, and to replace him by a citizen, the objects of whose mission, as expressed in his letters of credence, were "to maintain that good understanding which, from the commencement of the alliance, had subsisted between the two nations; and to efface unfavourable impressions, banish suspicions, and to restore that cordiality which was at once the evidence and pledge of a friendly union." The President of the Directory addressed the recalled Minister in the following terms: "In presenting to-day to the Executive Directory your letters of recall, you give to Europe a strange spectacle. France, rich in her liberty, surrounded with the train of her victories, strong in the esteem of her allies, will not abase herself by calculating the consequences of the condescensions of the American government to the suggestions of its ancient tyrants. The French Republic hopes, moreover, 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 good will of the French people with the crafty caresses of certain perfidious persons who meditate to bring them back to their ancient slavery. Assure, Mr. Minister, the good American people, that like them we adore liberty, that they will always have our esteem, and that they will find in the French people that Republican generosity, which knows as well how to grant peace as to cause its sovereignty to be respected."

The change of a minister is an ordinary act for which no government is accountable to another, and which has not heretofore been "a strange spectacle" in France or in any other part of Europe. It appears to be a measure not of itself calculated to draw on the government making such change, the strictures or the resentments of the nation to which the minister is deputed. Such an effect produced by so inadequate a cause, could not fail to command attention, while it excited surprize.

This official speech addressed by the government of France to that of the United States, thro' its minister charges that government with condescensions to the suggestions of its ancient tyrants, speaks of the crafty caresses of certain perfidious persons who meditate to bring back the successors of Columbus, Raleigh and Penn to their ancient slavery, and desires the minister to assure not his government but the good people of America, that they will always have the esteem of France, and that they will find in the French people, that republican generosity which knows as well how to grant peace as to cause its sovereignty to be respected.

That a minister should carry any assurances from a foreign government to the people of his nation, is as remarkable as the difference between the manner in which his government and his people are addressed. His government are charged with condescensions to the suggestions of the ancient tyrants of his country, but the people are considered as loving liberty, and they are to be assured of the perpetual esteem of France. This esteem they are to weigh against the crafty caresses of those perfidious persons who meditate to bring them back to their former slavery.

When this speech thus addressed directly to the government and people of the United States, in the face of Europe and the world, came to be considered in connexion with other measures, when it came to be

considered in connection with the wide spreading devastation to which their commerce was subjected, with the cruel severities practised on their seamen, with the recall of the Minister of France from the United States, and the very extraordinary manner in which that recall was signified by him both to the government and people, with the refusal even to hear the Messenger of Peace, deputed from the United States for the sole purpose of conciliation; it could not fail to make on the American mind a deep and a serious impression. It was considered as a fact too important to be held from the Congress by the department of the government which is charged with the duties of maintaining its intercourse with Foreign Nations, and of making communications to the Legislature of the Union. The President, therefore, did communicate it in the following words: "With this conduct of the French government it will be proper to take into view the public audience given to the late Minister of the United States on his taking leave of the Executive Directory. The speech of the President discloses sentiments more alarming than the refusal of a Minister, because more dangerous to our independence and union, and at the same time studiously marked with indignities towards the government of the United States. It evinces a disposition to separate the people of the United States from the government; to persuade them that they have different affections, principles and interests from those of their fellow-citizens whom they themselves have chosen to manage their common concerns, and thus to produce divisions fatal to our peace. Such attempts ought to be repelled with a decision which shall convince France and the world that we are not a degraded people, humiliated under a Colonial spirit of fear and sense of inferiority, fitted to be the miserable instruments of foreign influence, and regardless of national honor, character, and interest.

“ I should have been happy to have thrown a veil over these transactions, if it had been possible to conceal them; but they have passed on the great theatre of the world, in the face of all Europe and America, and with such circumstances of publicity and solemnity, that they cannot be disguised, and will not soon be forgotten; they have inflicted a wound in the American breast. It is my sincere desire, however, that it may be healed.”

It is hoped that this communication will be viewed in its true light, that it will no longer be considered as a denunciation of the Executive Directory, but as the statement of an all-important fact by one Department of the American Government to another, the making of which was enjoined by duties of the highest obligation.

The undersigned have now, Citizen Minister, passed through the complaints you urge against the Government of the United States. They have endeavoured to consider those complaints impartially, and to weigh them in the scales of justice and of truth. If any of them be well founded, France herself could not demand more readily, than America would make reparation for the injury sustained. The President of the United States has said, “ If we have committed errors, and these can be demonstrated, we shall be willing to correct them, if we have done injuries, we shall be willing, on conviction, to redress them.” These dispositions on the part of the Government have been felt in all their force by the undersigned, and have constantly regulated their conduct.

The undersigned will not resume, Citizen Minister, the painful task of reurging the multiplied injuries which have been accumulated on their country, and which have been in some degree detailed in their Memorial of the 17th January last. They cannot, however, decline to remonstrate against a mea-

sure which has been announced since that date. The Legislative Councils of the French Republic have decreed that,

1st. The condition of ships in every thing which concerns their character as neutrals or enemies. shall be determined by their cargo, consequently every vessel found at sea, laden in whole or in part with merchandize coming out of England, or its possessions, shall be declared good prize, whoever may be the proprietors of such commodities or merchandize.

2dly. No foreign vessel, which in the course of its voyage shall have entered into an English port, shall be admitted into any port of the French Republic, but in the case of necessity; in which case the vessel shall be obliged to depart from such port as soon as the cause of entry shall have ceased.

This decree too deeply affects the interests of the United States to remain unattended to by their Ministers. They pray you, therefore, Citizen Minister, to receive their respectful representations concerning it.

The object of the decree, is to cut off all direct intercourse between neutrals and Great-Britain or its possessions, and to prevent the acquisition, even by circuitous commerce, of those articles which come from England or its dominions.

The right of one nation to exchange with another the surplus produce of its labour, for those articles which may supply its wants or administer to its comfort, is too essential to have been ever classed among those admitted to be in any degree doubtful. It is a right in ceding which a nation would cede the privilege of regulating its own interests and providing for its own welfare. When any two nations shall chuse to make war on each other, they have never been considered, nor can they be considered as thereby authorizing themselves to impair the essen-

tial rights of those who may chuse to remain at peace. Consequently these rights, the free exercise of which is essential to its interests and welfare, must be retained by a neutral power, whatever nations may be involved in a war.

The right of a belligerent to restrain a neutral from assisting her enemy by supplying him with those articles which are defined as contraband, has been universally submitted to; but to cut off all intercourse between neutrals and an enemy, to declare that any single article which may have come from the possessions of an enemy, whoever may be its owner, shall of itself be sufficient to condemn both vessel and cargo, is to exercise a control over the conduct of neutrals which war can never give, and which is alike incompatible with their dignity and their welfare.

The rights of belligerents are the same. If this might be exercised by one, so might it be exercised by every other. If it might be exercised in the present, so it might be exercised in every future war. This decree is, therefore, on the part of France, the practical assertion of a principle which would destroy all direct or circuitous commerce between belligerent and neutral powers, which would often interrupt the business of a large portion of the world, and withdraw or change the employment of a very considerable portion of the human race.

This is not all. It is the exercise of a power which war is not admitted to give, and which, therefore, may be assumed in peace as well as war.

It materially affects the internal oeconomy of nations, deranges that course of industry which they have a right to pursue and on which their prosperity depends.

To acquiesce, therefore, in the existing state of things, under a principle so extensive and so per-

nicious, is to establish a precedent for national degradation which can never cease to apply, and which will authorize any measures which power may be disposed to practise.

France, therefore, will perceive that neutral Governments, whatever may be their dispositions towards this Republic, are impelled by duties of the highest obligation, to remonstrate against a decree which at the same time invades their interests and their independence, which takes from them the profits of an honest and lawful industry, as well as the inestimable privilege of conducting their own affairs as their own judgments may direct.

It is hoped that the remonstrances of the United States on this subject will derive additional force from their subsisting engagements with France, and from a situation peculiar to themselves.

The twenty-third article of the Treaty of Amity and Commerce of the 6th of February, 1778, is in these words: " It shall be lawful for all and singular the subjects of the Most Christian King, and the citizens, people and inhabitants of the said United States, 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 now are, or hereafter shall be at enmity with the Most Christian King or the United States. 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 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 Prince, or under several. And it is

hereby stipulated, 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; contraband goods always being 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 soldiers, and in actual service of the enemy."

The two Nations contemplating and providing for the case when one may be at war, and the other at peace, solemnly stipulate and pledge themselves to each other, that in such an event the subjects or the citizens of the party at peace may freely trade with the enemy of the other, may freely sail with their ships in all manner of security, to and from any port or place belonging to such enemy. Not only goods coming from the hostile territory, but the very goods of the enemy himself may be carried with safety in the vessels of either of the contracting parties.

You will perceive, Citizen Minister, without requiring the undersigned to execute the painful task of drawing the contrast, how openly and entirely the Decree of the Councils oppose itself to the Treaty between France and the United States.

In addition to the hitherto unceded rights of a sovereign and independent Nation, in addition to the right stipulated by compact, the undersigned will respectfully submit other considerations growing out of the peculiar situation of the United States, manifesting the particular hardships the decree complained of must impose on them.

In possession of a rich, extensive and unsettled country, the labour of the United States is not yet

sufficient for the full cultivation of its soil, and consequently but a very small portion of it can have been applied to manufactures. Articles of the first necessity and comfort are imported in exchange for provisions and for the raw materials which are the growth of the country, and which its inhabitants are accustomed to raise.

It is at any time extremely difficult, nor is it practicable without great loss, to change suddenly the habits of a whole people, and that course of industry in which their population and their real interests have engaged them. An agricultural cannot suddenly, and at will, become a manufacturing people; the United States cannot instantaneously, on the mere passing of a decree, transfer to the manufacture of articles heretofore imported, such a portion of their labour as will at the same time furnish a market for the surplus commodities, and a supply for the wants of the cultivator of the soil. It is, therefore, scarcely possible for them to surrender their foreign commerce.

Independent of the right they possess in common with others to search for and chuse the best markets, it is believed that the supplies they need could with difficulty, in the actual state of the world, be completely furnished without the aid of England and its possessions. It is not pretended that France manufactures at present, for foreign consumption, nor do the undersigned suppose that there exists a market where the citizens of the United States can obtain in exchange the articles they need and are accustomed to consume, if those coming out of England and its possessions be entirely excluded. A variety of other considerations, and especially the difficulties individuals must encounter in suddenly breaking old and forming new connexions, in forcing all their commerce into channels not yet well explored, in trading without a sufficient capital to countries where

they have no credit, combine to render almost impossible an immediate dissolution of commercial intercourse between the United States and Great-Britain.

If then the decree complained of shall be executed on American vessels, it can only increase grievances already but too considerable, and transfer the carriage of English manufactures, for American consumption, from their own to British bottoms, sailing under the protection of a convoy. Instead of wounding England, it will probably aggrandize its marine, by sacrificing the remnant of that of the United States, and by destroying that system of policy by which they have heretofore sought to give their own vessels that portion of their own carrying trade which would otherwise be enjoyed by British merchants.

You have made some general animadversions on the Government of the United States which the undersigned feel themselves bound briefly to notice.

You have charged that Government with giving instructions not in the sincere intention of arriving at pacific results, and yet the undersigned have offered to change those clauses in the Treaty of 1778 which have become inconvenient to France, and to repair any injuries which may have been committed.

You have charged that Government with omitting nothing to prolong and augment the misunderstanding between the two Republics; but does not the fact that the undersigned are now in Paris furnish persuasive evidence to the contrary?

You have charged it with searching to justify, by deceitful appearances, the prejudices with which it surrounds at pleasure the name of the Republic, and the system of exasperation and separation pursued in this respect with the strangest obstinacy. But has not this Republic, in terms the most cordial, been again and again intreated to enter into a candid in-

vestigation of the mutual complaints of the two nations? Have not these entreaties been unnoticed, whilst the Ministers deputed to make them have remained unaccredited?

You have charged it with wishing to seize the first favourable occasion for consummating an intimate union with a power towards which a devotion and a partiality are professed which have long constituted the principle of the conduct of the Federal Government; but whilst no devotion or partiality has been expressed for any nation except France, have not the United States made, and are they not still making the most extraordinary efforts to restore the broken relations between the two Republics?

In a letter discussing the important interests of two great nations, the undersigned are unwilling to introduce what relates personally to themselves.

This unwished for task has been rendered a duty by ascribing to them opinions and relations which exist in imagination only, and by adducing those supposed opinions and relations as proofs of an indisposition, on the part of the Government which has deputed them, towards that accommodation which has been sought so unremittingly through all those difficulties and impediments with which the pursuit has been embarrassed.

You are pleased to add, that these intentions are so little disguised, "that nothing seems to have been neglected at Philadelphia, to manifest them to every eye. It is probably with this view that it has been judged proper to send to the French Republic, persons whose opinions and relations are too well known to hope from them dispositions sincerely conciliatory."

The opinions and relations of the undersigned are purely American, unmixed with any particle of foreign tint. If they possess a quality on which they pride themselves, it is an attachment to the happi-

ness and the welfare of their country ; if they could at will select the means of manifesting that attachment, it would be by effecting a sincere and real accommodation between France and the United States, on principles promoting the interests of both, and consistent with the Independence of the latter.

It requires no assurance to convince, that every real American must wish sincerely to extricate his country from the ills it suffers, and from the greater ills with which it is threatened ; but all who love liberty, must admit that it does not exist in a Nation which cannot exercise the right of maintaining its Neutrality. If "opinions and relations," such as these are incompatible with "dispositions sincerely conciliatory," then indeed has the Federal Government chosen unfit instruments for the expression of its pacific disposition.

You contrast the conduct observed by the United States, under analagous circumstances, towards the cabinet of St. James, with that which is observed towards this Republic. You say that on that occasion there was a solicitude to send to London Ministers well known to possess sentiments conformable to the objects of their mission : That the Republic has a right to count upon a similar deference ; and that if a like attention has not been observed with respect to it, it is too probable that it must be attributed to the views already indicated.

If unfortunately the cases shall exhibit a contrast, it is not to be found in the characters the United States have thought proper to employ, or in the conduct of their Government, otherwise than by the superior attention manifested towards this Republic, and never shewn to any other nation, in deputing to it, with ample powers, three Envoys Extraordinary and Ministers Plenipotentiary from the three great divisions of the United States. The Ministers sent

to the Cabinet of St. James' greatly deserved the confidence of their country; but they did not possess sentiments more conformable to the objects of their mission than those deputed to this Republic. They did not wish more ardently to effect reconciliation; nor is it believed that any persons who could have been deputed to that Cabinet would have submitted to greater sacrifices in order to obtain it. Had their application for compensation for past injuries, and security against their future commission, been only met by requisitions, a compliance with which would involve their nation in ills of which war perhaps might not be the most considerable; had all attempts to remove unfavorable impressions failed, and all offers to make explanations been rejected; can it be believed that other Ministers (the first having been ordered out of the Nation) would have waited six months unaccredited, soliciting permission to display the upright principles on which their Government had acted, and the amicable sentiments by which it was animated?

The undersigned are induced, Citizen Minister, to pray your attention to these plain truths, from a conviction that they manifest unequivocally the friendly temper of the Federal Government, and the extreme reluctance with which the hope of an accommodation with France would be relinquished.

The undersigned observe with infinite regret, that the disposition manifested to treat with the Minister who might be selected by this Government, is not accompanied with any assurances of receding from those demands of money heretofore made the considerations on which alone a cessation of hostility on American Commerce could be obtained, to which the undersigned have not the power to accede, with which the United States would find it extremely difficult to comply, and a compliance with which would violate that faith pledged for the observance

of neutrality, and would involve them in a disastrous war with which they have no concern. Nor do you answer to the applications which have been made for compensation to the citizens of the United States for property which shall be proved to have been taken contrary to the law of nations and existing Treaties, otherwise than that you are willing to discuss cases where there has been a departure from certain principles, which principles, in fact, involve almost every case.

You have signified, Citizen Minister, that the Executive Directory is disposed to treat with one of the Envoys, and you hope that this overture will not be attended on the part of the undersigned with any serious difficulty. Every proposition of the Executive Directory is considered with the most minute and respectful attention.

The result of a deliberation on this point is, that no one of the undersigned is authorized to take upon himself a negotiation evidently entrusted by the tenor of their powers and instructions to the whole: Nor are there any two of them who can propose to withdraw themselves from the task committed to them by their Government while there remains a possibility of performing it.

It is hoped that the prejudices said to have been conceived against the Ministers of the United States, will be dissipated by the truths they have stated.

If in this hope they shall be disappointed, and it should be the will of the Directory to order passports for the whole or any number of them, you will please to accompany such passports with letters of safe conduct, which will entirely protect from the cruizers of France, the vessels in which they may respectively sail, and give to their persons, suite and property, that perfect security to which the laws and usages of nations entitle them.

They pray you, Citizen Minister, to receive the

renewal of their assurances of profound respect and consideration.

(Signed)

CHARLES COTESWORTH PINCKNEY.
JOHN MARSHALL,
E. GERRY.

A true copy,

HENRY M. RUTLEDGE, Sec.

[FRENCH ORIGINAL.]

*Le Ministre des Relations Exterieures de la Re-
publique Française,*

à

MESSRS. CHARLES COTESWORTH
PINCKNEY, J. MARSHALL, ET
E. GERRY.

LE souffigné, Ministre des Relations Exterieures de la Republique Française a mis sous les yeux du Directoire Executif, le Memoire que les Commis-
saires et Envoyés Extraordinaires des Etats-Unis de l'Amerique lui ont fait parvenir sous la date du 28 Nivose dernier, et c'est en execution des intentions du Directoire, qui desire convaincre les Etats-Unis

des véritables dispositions qui l'animent à leur-égard, que le soussigné communique aux Commissaires et Envoyés Extraordinaires les observations suivantes.

La première chose que a dû frapper dans le Mémoire des Commissaires et Envoyés Extraordinaires, c'est la méthode qu'ils ont jugé à-propos de suivre dans l'exposition et dans la discussion des points qui sont en contestation entre les deux Etats. Le Directoire Executif animé des dispositions le plus conciliantes et pénétré des intérêts qui doivent rapprocher les deux nations, autant qu'empressé de concourir au vœu bien connu des deux peuples pour le maintien d'une intimité parfaite, avait lieu d'attendre que les Envoyés apporteraient au nom de leur Gouvernement des dispositions entièrement analogues et un esprit préparé d'avance par les mêmes vues et par les mêmes desirs. Quel a dû être, d'après cela, l'étonnement du Directoire Executif, quand le soussigné lui a rendu compte d'un Mémoire dans lequel les Commissaires et Envoyés Extraordinaires en renversant l'ordre connu des faits, se sont attachés à passer, en quelque sorte sous silence, les justes motifs de plainte du Gouvernement Française, et a déguiser la véritable cause de la mésintelligence qui se prolonge entre les deux Républiques ! En sorte qu'il paraîtrait, d'après cet exposé, aussi partial, qu'infidèle, que la République Française n'a aucun grief réel à faire valoir, aucune réparation légitime à exiger ; tandis que les Etats Unis seroient les seuls admissibles à se plaindre, les seuls autorisés à réclamer des satisfactions.

Les intentions qui ont fait préférer cette marche à toute autre n'ont point échappé au Directoire Executif ; et, c'est autant par un juste sentiment de la dignité de la République dont les intérêts lui sont confiés, que pour se prémunir éventuellement contre les vues qu'on pourrait se proposer par une semblable conduite, qu'il a chargé le soussigné de faire

desparaître ces vaines apparences, qui ne peuvent en effet subsister à l'instant que les faits auront été rétablis et que les véritables intentions du Directoire auront été solennellement constatées en opposition avec celles qu'on ne pourrait lui attribuer que gratuitement et en se prévalant de son silence.

Une vérité incontestable, et qui se trouve entièrement écarté dans le Memoire des Commissaires et Envoyés Extraordinaires, c'est que l'antériorité des griefs et des plaintes appartient à la République Française; que ces plaintes et ces griefs étaient aussi réels que nombreux, bien avant que les Etats Unis eussent la moindre réclamation fondée à élever et par conséquent avant que tous les faits sur lesquels les Envoyés appuient avec tant de détails, eussent existé.

Une autre vérité non moins incontestable, c'est que tous les griefs que présentent les Commissaires et Envoyés Extraordinaires, sauf des exceptions que le soussigné était prêt à discuter, sont une conséquence nécessaire des mesures que la conduite antérieure des Etats Unis avait justifiées de la part de la République Française, et que ses traites avec les dits Etats Unis autorisaient dans certains cas, qu'il dépendait du Gouvernement général de l'Union de faire ou de ne pas faire exister.

Il serait hors de propos d'entrer dans l'énumération des plaintes que le Gouvernement Française avait lieu d'élever contre le Gouvernement Fédéral, depuis le commencement de la guerre suscitée à la République Française par une puissance jaloux de sa prospérité et de la régénération. Ces détails sont consignés dans les offices nombreux passés à Philadelphie par les Ministres de la République, et ils ont été récapitulés par le prédécesseur du soussigné, dans une note, adressée sous la date du 19th Ventose an 4me. au Ministre Plenipotentiaire des Etats Unis à Paris, et exposés très en détail dans l'office passé à Phila-

delphie par le Citoyen Adet, le 25 Brumaire de l'an 5me. On se plaignait dans la note ci dessus de l'inexécution des traités conclus en 1778, dans les seules clauses où la France eut stipulé quelques avantages en retour des efforts qu'elle s'était engagée à faire pour l'utilité commune; et l'on y réclamait contre des insultes faites à la dignité de la Republique Française.

Des les commencement de la guerre, en effet les tribunaux Americains ont prétendu au droit de prendre connaissance de la validité des prises menées dans les ports des Etats-Unis par des croiseurs Français. Il est résulté de cette prétention contraire à la lettre du traité de commerce de 1778, que les propriétés des citoyens de la Republique ont été injustement détenues, et que l'on a totalement decouragé la course Française, dans les mers de l'Amerique contre un ennemi qui en faisait revivre les lois de plus barbare pour detruire et insulter le commerce Americain sous les yeux mêmes du gouvernement fédéral.

On ne se bornait pas à favoriser les ennemis de la Republique Française dans un point aussi essentiel, point sur lequel il pouvait à la verité survenir quelques abus, mais que le gouvernement Français se montrait disposé à prevenir; on allait encore jusqu'à permettre aux vaisseaux ennemis contr le sens textual du traité ci-dessus, de relacher dans les port des Etats-Unis après avoir capturé des propriétés ou *des batiments appartenans à des citoyens Français*. Bientôt après on arrêta par ordre du gouvernement une corvette nationale mouillée dans le port de Philadelphie,* et cette arrestation s'étendit ensuite jusqu'au capitaine commandant. Les tribunaux Americains se faiserent de même de la personne de l'Ex-Gouverneur de la Guadaloupe, pour faits de son administration, et il a fallu que le Directoire Exécutif me-

* Arrestation du Cassius, Août 1795.

naçat d'user de représailles pour faire prendre à cette affaire le cours que le droit des gens lui assignait.

Pendant tout l'espace de tems qu'on vient de parcourir le gouvernement Français fit des vains efforts pour déterminer le gouvernement des Etats-Unis à procurer aux agens de la Republique les moyens l'égaux de faire exécuter les clauses de la convention consulaire de 1788, qui accordaient à notre navigation et à notre commerce des privilèges dont le principe était consacré par la traité de 1778 ; et jamais on ne peut obtenir à cet égard que des renvois infructueux aux tribunaux. En général, toutes les matieres qui avec des intentions sincerement conciliantes, auraient pu se terminer par voie de negociation étaient habituellement déferées aux autorités judiciaires : et celles-ci, soit qu'elles fussent ou non soumises à une influence secrète, privaient en dernière analyse la Republique des droits fondés sur les traités, ou bien en modifiaient l'exercice selon qu'il convenait au système du gouvernement.

Tel était l'état véritable des choses au mois d'août 1795, époque où la ratification d'un traité d'amitié, de navigation et de commerce, signé à Londres dans le mois de Novembre précédent, entre les Etats-Unis et la Grande Bretagne vint mettre le comble aux griefs de la Republique.

Quelle avait été jusques là la conduit du gouvernement Français envers les Etats-Unis ? Le souffigné, pour en faire voir le contraste avec celle des dits Etats se contentera de rappeler des faites qui ne peuvent toutesfois avoir été oubliés.

Occupée des soins les plus pressans en Europe, la Republique n'avait porté ses regards sur les Etats-Unis que pour leur donner constamment des preuves nouvelles de l'amitié et de l'interêt les plus sincères, et elle laissait à ses agens à discuter à l'amiable avec le gouvernement fédéral les contestations dont on

vient de tracer une esquisse et qui, si elles eussent été traitées de part et d'autre avec un véritable esprit de conciliation, n'auraient pu altérer la bonne intelligence au point où elle l'est en ce moment. La République était à peine constituée qu'on envoyait un Ministre à Philadelphie dont la première démarche fut de déclarer aux Etats Unis, qu'on ne les presserait point d'exécuter les clauses défensives du traité d'alliance, quoique les circonstances représentassent de la manière la moins équivoque, le *casus fœderis*. Loin d'apprécier cette conduite, le gouvernement Américain la reçut comme la reconnaissance d'un droit, et c'est dans cet esprit encore que les Commissaires et Envoyés Extraordinaires ont abordé cette question au commencement de leur Mémoire. Le Ministre de la République à Philadelphie ayant donné de l'inquiétude au gouvernement Américain fut rappelé avec impressement et même avec des circonstances extrêmement rigoureuses. Son successeur porta aux Etats-Unis toutes les réparations désirables ainsi que les déclarations les plus amicales et les plus sincères. Rien n'égale l'esprit de conciliation, ou plutôt de condescendance dans lequel ses instructions étaient rédigées relativement à tous les points qui avaient causé quelques inquiétudes au gouvernement fédéral. Le Cit. Adet renforça encore, au nom de la Convention nationale, ces expressions de bienveillance ; et cette assemblée elle-même accueillit avec, l'effusion d'une confiance et d'une sécurité sans bornes, le nouveau Ministre que le Président des Etats-Unis envoyait auprès d'elle, avec l'intention apparente de répondre sincèrement aux dispositions que la République n'avait cessé de professer.

Ce qui doit paraître incroyable, c'est que la République et son alliance étaient sacrifiées au moment où elle redoublait ainsi d'égards pour son alliée et que les démonstrations correspondantes du Cou-

vernement Fédéral n'avaient pour but que de la maintenir ainsi que son Gouvernement dans une fausse sécurité. Et ce pendant il est connu aujourd'hui que c'est à cette même époque que M. Jay, qui avait été Envoyé à Londres, seulement disait on alors, pour négocier des arrangements relatifs aux déprédations exercées sur le commerce Americain, par les croiseurs de la Grande Bretagne, signait un Traité d'Amitié, de Navigation et de Commerce, dont à Paris et à Philadelphie on a tenu la négociation et la signature dans le plus grand secret. Ce Traité ne fut avoué à notre Ministre Plenipotentiaire, qu'à la dernière extrémité, et il ne lui fut communiqué que pour la forme, et après qu'il eut reçu la ratification du Sénat. Lorsque les Agens de la République se sont plaints de cette conduite mystérieuse, on a répondu en invoquant l'Independence des Etats Unis, solennellement consacrée dans les Traités de 1778—maniere étrange de combattre un grief dont la dissimulation à la quelle on a recours démontre la réalité,—subterfuge insidieux, qui substitué au vrai point de la question, un principe général, que la République ne pouvait pas être soupçonnée de contester, et qui détruit à l'aide d'un sophisme, cette confiance intime, qui doit exister entre deux alliées, et qui surtout devait exister entre la République Française et les Etats-Unis.

S'il est difficile de trouver dans cette conduite celle qu'on doit attendre d'un ami, que doit on penser du Traité même, et de ses clauses? Ce Traité est aujourd'hui connu de toute l'Europe; et la faible majorité majorité à la quelle il a passé dans les deux chambres, ainsi que la multitude des vœux imposans qui se sont prononcés dans la nation contre un tel acte, déposent honorablement en faveur de l'opinion qu'en a portée le Gouvernement Française. Le soussigné ne repetera point à l'égard de ce Traité, ce que son predecesseur en a dit dans sa note du 19 Ventose

precitée, et dans celle 19 Messidor fuivant, et ce qui le Ministre Plenipotentiaire de la Republique à Philadelphie a exposé tres au long dans son office du 25 Brumaire. Il se contentera d'observer sommairement, que dans ce Traité tout ayant été prevue, pour faire tourner la neutralité des Etats Unis ou desavantage de la Republique Française et à l'avantage de l'Angleterre, que le Gouvernement Fédéral ayant fait dans cet acte, à la Grande Bretagne, les concessions les plus inouies, les plus incompatibles avec les interets des Etats-Unis, les plus derogatoire à l'alliance qui existait, entre les les dits Etats et la République Française, celle ci a été parfaitement libre, de se prevaloir pour parer au inconveniens du Traité de Londres, des moyens conservatoires que lui fournissaient le droit naturel, le droit des gens, et les Traités anterieures.

Tels sont les raisons qui ont determiné les arretes du Directoire dont se plaignent les Etats-Unis, ainsi que la conduite de ses agens aux antilles. Toutes ces mesures ont pour principe l'article 2 du Traité de 1778, qui vent qu'en matiere de Navigation et de Commerce la France soit toujours à l'égard des Etats Unis sur la pied de la nation la plus favorisée. On ne peut s'en prendre au Directoire Executif, si de l'execution de cette clause eventuelle, il est résulté quelques inconveniens pour le pavillon Americain. Quant aux actes abusifs qui pourvaient sortir de ce principe le sousigné repete encore qu'il etait prêt à les discuter de la maniere la plus amicale.

De cet exposé fidel des faits qui ont progressivement amené entre les deux Etats le mesintelligence actuelle, il resulte comme l'a dit la sousigné, en commençant cette reponse, que l'antériorité des griefs appartient à la Republique Française, et que celles de ses mesures qui ont pu motiver, les plaints des Etats Unis, sont à quelques exceptions près la con-

sequence naturelle d'un état de choses qu'il a dépendu d'eux, de faire ou de ne pas faire exister.

Le sousigné en terminant au Traité de Londres, l'exposition des griefs de la République ne remplirait qu'imparfaitement sa tâche, et il est de son devoir, de porter plus loin ses regards. Dès qu'une fois le Traité dont il s'agit eut été mis à exécution, le Gouvernement des Etats-Unis, sembla se croire dispensé de garder aucune mesure envers la République malgré l'assurance reiterée qu'on avait donné à ses Ministres, que le traité ne changerait rien à l'état préexistant de la Neutralité des Etats-Unis, on notifia dans le courant de l'année 1796, aux croiseurs Français, qu'ils ne pouvaient plus comme jusqu'alors, cela s'était pratiqué, être admis à vendre leurs prises dans les ports des Etats-Unis. Cette décision fut rendue par la Cour Fédérale de justice, et motivée sur le traité conclu entre les Etats-Unis et la Grande Bretagne.

Les journaux connus pour être sous le contrôle indirect du cabinet ont depuis le traité redoublé d'invectives, et des calomnies, contre la République, et contre ses principes, ses Magistrats et ses Envoyés ; des pamphlets ouvertement soudoyés par le Ministre de la Grande Bretagne ont reproduit sous toutes les formes ces insultes et ses calomnies, sans que jamais un état de choses aussi scandaleux, ait attiré l'attention du Gouvernement qui pourrait le reprimer. Au contraire le Gouvernement lui même, s'est attaché dans ses actes publics à encourager ce scandale. Le Directoire Executif s'est vu dénoncé dans un discours prononcé par le Président, dans le cours du mois de Mai dernier (V. S.) comme cherchant à propager l'anarchie, et la division dans les Etats-Unis. Les nouveaux alliés qui la République s'est faits, et qui sont les mêmes qui contribuèrent à l'indépendance des Américains, ont été également insultés, dans des correspondances officielles, qui ont été rendues pub-

liques, ou dans les journaux. Enfin on ne peut s'empêcher de reconnaître, dans le ton des discours, et dans celui des publications qu'on vient d'indiquer une inimitié sourde, qui n'attend que le moment pour éclater.

Les faits ainsi établis, il est fâcheux d'avoir à penser, que les instructions d'après lesquelles ils ont agi, n'ont point été rédigées, dans l'intention sincère, d'arriver à des résultats pacifiques puisque loin de partir dans leur Mémoire, de quelques principes avoués, et de quelque faits reconnus, les Commissaires, ont intervertés, et confondu les uns avec les autres de manière à pouvoir imputer à la République tous les malheurs d'une rupture qu'on semble vouloir amener, par une marche semblable. Il est évident que le desir bien prononcé de soutenir à tout prix le traité des Londres qui est le principal grief de la République, d'adhérer à l'esprit dans le quel ce traité a été conçu, et exécuté, et de n'accorder à la République aucun des moyens de réparation, qu'elle a proposés par l'organe du soussigné ont dictés ces instructions. Il est également évident qu'on n'hésite pas à ces sentimens étranges, ceux que devraient inspirer les traités de 1778, et le souvenir des circonstances au milieu des quelles ils ont été conclus.

Les conséquences éloignées d'une pareille conduite n'ont échappé à l'intention du Directoire. On desirait en n'omettant rien pour prolonger la méintelligence, et l'augmenter encore, en rejeter sur la République tout l'odieux aux yeux de l'Amérique et de l'Europe. On cherche à justifier par des apparences trompeuses, les preventions dont on entoure à plaisir le nom de la République, et le système d'exaspération et d'éloignement, qu'on suit à son égard avec la plus étrange obstination : on veut enfin saisir la première occasion favorable, pour consommmer une union intime avec une Puissance envers

la quelle on professe, un devouement et un partialité qui sont depuis long tems le principe de la conduite du gouvernement fédéral.

Les intentions que le soussigné attribue ici au Gouvernement des Etats-Unis, sont si peu deguisees, qu'on semble n'avoir rien negligé à Philadelphie, pour les manifester à tous les yeux. C'est vraisemblablement dans cette vue que l'on a jugé à propos d'envoyer vers la République Française des personnes, dont les opinions et les relations sont trop connus pour en esperer des dispositions sincerement conciliantes. Il est pénible pour le soussigné d'être obligé de relever le contraste de cette conduite avec celle qu'on a tenu envers le Cabinet de St. James, dans des circonstances analogues. On s'est empressé alors d'envoyer à Londres, des Ministres bien connus par des sentimens conformes à l'objet de leur mission.

La Republique aurait du compter, ce semble, sur une deference pareille, et l'on na point observé à son égard, les memes convenances, il est beauconp trop vraisemblable, qu'il faut l'attribuer aux vues indiquées, plus hauts par le soussigné.

Il est impossible de prevoir où peuvent conduire de telles dispositions. Le soussigné n'hesite point à croire que la nation Americaine, comme la nation Française, voit avec regret, cet etat de choses, et n'en envisage, les consequences, qu'avec douleur. Il estime que le peuple Americain, ne se meprendre ni sur les preventions qu'on a voulu lui inspirer contre un peuple allié, ni sur las engagements qu'on semble vouloir lui faire contracter au detrimement d'une alliance, qui a si puissamment contribuer à lui mettre au rang des nations, et a l'y maintenir, et qu'il verra dans ces combinaisons nouvelles, les seules dangers que peuvent courir sa prosperité et sa consideration.

Penetre de la justesse de ces reflexions, et de leurs

conséquences, le Directoire Executif a autorisé le soussigné à s'exprimer avec toute la franchise qui convient à la nation Française. Il est indispensable qu'au nom du Directoire il dissipat ces prestiges dont on n'a depuis cinq ans cessé d'entourer à Philadelphie les plaintes des Ministres de la République, pour les atténuer, les calomnier, ou les travestir: il était instant enfin qu'en faisant connaître les sentimens d'une manière non équivoques, il éclaircit toutes les doutes et toutes les fausses interprétations dont ils aimaient pu être l'objet.

C'est donc uniquement dans la vue d'appplanir la voie des discussions, que le soussigné est entré dans les développemens qui precedent. C'est dans la même vue qu'il déclare aux Commissaires et Envoyés Extraordinaires, qui malgré la sorte de prevention qu'on a pu concevoir sur aux le Directoire Executif, est disposé à traiter avec celui d'eux trois dont les opinions, presumées plus impartiales promettent dans le cours des explications plus de cette confiance reciproque qui est indispensable.

Le Souffigné se flatte que cette ouverture ne souffrira de la part des Commissaires et Envoyés Extraordinaires aucune difficulté sérieuse. Il est d'autant plus naturel de l'espérer, que par le teneur de leurs pouvoirs les dits Commissaires et Envoyés Extraordinaires son autorisés à negocier conjointment ou *séparément*. Enforte que le désir seul de prévenir tout accommodement pourrait élever quelque objection contre cette mesure, qu'on ne fait au reste qu'indiquer aux Commissaires eux memes, pour que rien ne porte ici un caractère de défaveur et qui évidemment n'a d'autre objet qui d'assurer à la negociation une heureuse issue, en écartant d'abord tout ce qui pourrait de part et d'autre réveiller dans le cours de cette negociation des sentimens capables de la compromettre.

Le soussigné espère que les Commissaires et En-

voyès Extraordinaires le mettront bientôt en ètat de rendre compte au Directoire Executif de leur determination. Quelque puisse ètre cette determination le fouffigné se flatte que les explications dans les quelles il est entrè, auront mis la question dans son vrai jour, et pourront èventuellement servir á diffiper aux yeux de tous les hommes impartiaux, l'impression défavorable dont on chercherait á atteindre les intentions de la République Française, et son Gouvernement. Il termine par renouveler aux Commissaires et Envoyès Extraordinaires l'assurance de sa confideration.

(Signè)

CH. MAU. TALLEYRAND.

Paris, 28 Ventose, an 6.

