

DOCUMENTS

Which accompanied the message of the President of the United States to both Houses of Congress, January 19, 1797.

Letter to Mr. Pinckney, Minister Plenipotentiary of the United States to the French Republic. Continued.

7. "Notwithstanding the faith of treaties, it gave an asylum to these same English, who after having insulted her flag, pillaged her citizens, came also to brave the American people in their ports, and to take a station whence to cruise, on a favourable opportunity, against the French."

This like most other of Mr. Adet's charges, is but the renewal of the complaints of his predecessor, Mr. Fauchet, and the vindication of the government will appear in the answer and communications from the Secretary of State to that minister, in the years 1794 and 1795. The cases particularly noticed were those of the British frigates *Terpichore* and her prize *la Montagne*; and of the British ship *Argonaut* and her prize *L'Esperance*. The *Thetis* and *Hulstar* British frigates with their French prizes *la Prevoyance* and *la Raïson* are also mentioned, but without any facts or circumstances as subjects of enquiry, which of course is precluded. That of the *Terpichore* and her prize appears to have been the first case of the kind in which the Executive of the United States and those of the particular states were called to interfere; and therefore, it will not be thought extraordinary if the Executive of Virginia was unprepared with arrangements to give instant effect to the stipulation of the 17th article of the treaty of 1778, forbidding an asylum to the armed vessels of the enemies of France and their prizes. What delay took place seems to have been the result of accident; certainly not of design. And by letters from this department the Executives were earnestly pressed to take the necessary order for a prompt execution, in future, of this part of the treaty. But why should the French ministers complain with such energy, that a British ship of war, with her prize, remained in one of our ports during perhaps twenty or five and twenty days; when against the earnest requests and orders of the Executive, the French privateers, armed in our ports in violation of the laws, long continued to keep on our coast and enter our harbours, thence on favorable opportunities, to cruise against their enemies? The *Columbia*, or *Carmagnole*, continued such her unlawful acts for more than a year.

After all the zealous remonstrances of Mr. Fauchet, now renewed by Mr. Adet, about the capture of the French corvette *L'Esperance*, by the British ship *Argonaut*, who went with her prize into Lynn Haven Bay, what were the facts? The Governor of Virginia went personally to the French Consulate Norfolk for information concerning this declared violation of the treaty—but "received none which appeared to justify the uneasiness occasioned by that event, he charging no circumstance as improper in the captors but rather seemed to consider the introduction of the prisoners made on that occasion, so soon into a place where the exchange would be effected, as an alleviation of the misfortune of losing the vessel." The Captain of the French corvette himself was desired to give evidence in the case; he promised but failed to appear. He was called upon the second time to give information, but discovered an unwillingness to do it, observing that he had given the Consul a circumstantial account of the transaction on his arrival. The governor having heard that a respectable pilot by the name of Butler was acquainted with the circumstances of this affair, he directed his deposition to be taken: it was taken and imported that Admiral Murray himself purchased the prize *L'Esperance*, and manned and fitted her in Lynn Haven Bay for a cruise. But Butler's deposition was afterwards taken on the part of the British, in which he contradicted all the material facts recited in the former deposition; for which he accounted by saying that he could neither write nor read, and that there had been inserted in his first deposition what he had never said. Under these circumstances it was desirable to obtain further information. This was furnished by the British minister in the extract of a letter from Admiral Murray, which bears every mark of candour and humanity, and of respect for the United States. It is as follows.

"The French sloop of war *L'Esperance* was brought into Lynn Haven Bay on the 11th of January (a few days after my arrival there) by captain Ball, who had captured her 15 leagues from the shore, the weather being very imperfect, a lieutenant with a sufficient number of men only to navigate her (not being half the complement the French had in her) were sent on board from the *Resolution* and *Argonaut*; and so soon as the weather permitted those ships to supply her with water and provisions, I sent her to sea, that I might give no umbrage to the American states. An additional reason for bringing *L'Esperance* into Lynn Haven Bay was out of humanity to the French prisoners, whom, having had a long voyage, I sent to Norfolk as soon as prudence would permit; otherwise they must have been kept prisoners on board the whole winter, and sent to Halifax in the Spring; nor was she equipped or armed then in any manner whatever; nor did the lieutenant receive any commission for her whilst in Lynn Haven Bay; and when at sea only an acting order to command her, which is customary and absolutely necessary in all captures; otherwise if retaken by the enemy, he might be considered as a pirate."

8th. "It might be said that it applauded their [the English] audacity; all submission to their will, it allowed the French colonies to be declared in a state of blockade, and its citizens interdicted the right of trading with them."

If among the multitude of such complaints as Mr. Adet has exhibited, any one could excite surprise, this charge is calculated to produce it. Here a formal charge is made against the government of the United States, that it did not control, in another independent nation, the right of judging of its own affairs—that it did not forbid and effectually prevent the officers of a foreign power, the British admirals and commanders, in the West-Indies, declaring certain French colonies to be in a state of blockade!—"But the official legalization of a proclamation had been posted up under our eyes, prohibiting our commerce with the French colonies, and suspending *de us alone* the law of nations! The answer to Mr. Fauchet, from the Secretary of State, represents this matter differently. The British consul general at Philadelphia, by a publication of the 10th of April 1795, gave notice that he had received official communications that the islands of Guadalupe, Marigalente and Desfrade, were by proclamation issued by his Britannic majesty's general and vice-admiral commanding in the West Indies, declared to be in an actual state of blockade; and that neutral (not singly

American) vessels, were thereby prohibited from attempting to enter any ports or places in those islands with supplies of any kind, under the penalty of being dealt with conformably to existing treaties, and as warranted by the established laws of nations." And while existing treaties (our treaty with Great Britain had no operative existence till six months after the consul's advertisement) and the laws of nations were avowed to be the rules by which the property of neutrals was in this case to be adjudged, had they reason to complain? If any neutral vessels attempted to enter any of those ports which were not in reality in a state of blockade, and yet were captured, could they be condemned? Certainly not by the rules which the British prescribed to themselves "treaties and the laws of nations." But if the British commanders proclaimed untruths, and issued arbitrary orders for capturing neutral vessels; and their cruisers and courts of admiralty executed them arbitrarily; could the American government prevent them? We could demand of the British government satisfaction for injuries to our own citizens consequent on such orders; and if any such were sustained, the arrangements for making reparation are now in execution. But admitting that any ports in the French colonies were in fact blockaded; who should notify it to neutral nations accustomed to trade with those ports? Certainly the officers of that power whose fleets and armies formed the blockade; and in the United States no mode of giving universal notice could be so effectual as a publication in hand-bills and newspapers.

9th. "It eluded all the advances made by the republic for renewing the treaties of commerce upon a more favorable footing to both nations; it excused itself on the most frivolous pretences; whilst it anticipated Great Britain, by soliciting a treaty in which prostituting its neutrality, it sacrificed France to her enemies; or rather looking upon her as obliterated from the map of the world, it forgot the services she had rendered it, and threw aside the duty of gratitude, as if in gratitude were a government duty."

Of the advances referred to, the first were made by Mr. Genet. These you will see in the printed correspondence between him and Mr. Jefferson. Mr. Genet's letter is dated the 23d of May, 1793, in which he informed the government that he was authorized to propose a treaty on a "liberal and fraternal basis." Mr. Jefferson's letter to Mr. Morris, our minister at Paris, dated the 23d of August, 1793, assigns the reason for postponing the negotiation. "The senate (says he) being then in recess, and not to meet again till the fall, I apprised Mr. Genet that the participation in matters of treaty, given by the constitution to that branch of our government, would of course delay any definitive answer to his friendly proposition. As he was sensible of this circumstance, the matter has been understood to lie over till the meeting of the senate." Congress were not to meet until December; consequently there was no necessity of precipitating the business. But with the best dispositions to form new commercial arrangements mutually more beneficial than those of the treaty of 1778, the unwarrantable conduct of Mr. Genet, from the moment he landed at Charleston until the date of his letter on the subject of the negotiation, was sufficient to excite caution in the American government. He had there violated the sovereignty of the United States. "By authorizing the fitting and arming of vessels in that port, enlisting men, citizens and foreigners, and giving them commissions to cruise and commit hostilities on nations at peace with us; and with whom we had extensive commercial connections. These privateers were taking and bringing prizes into our ports, and the consuls of France were assuming to hold courts of admiralty on them, to try, condemn and authorize their sale as legal prize." Nevertheless, the government really desirous of forming a new and more advantageous commercial treaty with France, instructed the minister of the United States at Paris to manifest the same to the executive of France; and to suggest for this purpose that the powers of Mr. Genet be renewed to his successor. It is true that in his letter, dated the 30th of September, Mr. Genet had renewed the proposition of negotiating a commercial treaty; but how was it possible for the government to undertake a negotiation with that minister after "The correspondence which had taken place between the executive and him" (a correspondence on his part replete with insults "and the acts which he had thought proper to do and to countenance in opposition to the laws of the land?" After the government had instructed our minister at Paris to desire Mr. Genet's recall; and to declare to the government of France "The necessity of their having a representative here disposed to respect the laws and authority of the country, and to do the best for their interest which these would permit;" and when it was only an anxious regard for those interests, and a desire that they might not suffer, which induced the executive in the meantime to receive his communications in writing, and to admit the continuance of his functions so long as they should be restrained within the limits of the law, as theretofore announced to him, or should be of the tenor usually observed towards independent nations by the representative of a friendly power residing with them?" Under such circumstances what answer could the executive return to Mr. Genet more proper, and more marked with attention to France, than that his letter "would be considered with all the respect and interest which its object necessarily required?"

It is probable that the powers to negotiate a commercial treaty were not renewed to Mr. Genet's successor; certainly they were not communicated to our government.

We now come to the fresh overtures of a commercial negotiation made by Mr. Adet.

The first notices of them are found in memoranda of facts dated the 27th and 29th of June 1795, and subscribed by the secretary of state. By these

\* State papers, p. 15.

† State papers, p. 68.

‡ Letter to Mr. Morris, August 16th, 1793, State papers, p. 58.

§ State papers, p. 68.

it appears, that on the 13th of June Mr. Adet arrived at Philadelphia. On the 15th Mr. Fauchet introduced him to the secretary of state;—on the 16th Mr. Adet informed the secretary that he should the next day send him some act of the French government, relative to commerce; but it was not sent. On the 22d of June Mr. Adet was reminded of the promised communication. He said it was copying, and gave reason to suppose that he should forward it on that day; but on that day nothing was received.

On the 29th of June 1795 Mr. Adet had an interview with the secretary of state: He observed that he brought with him the commercial decrees which Mr. Genet had formerly propounded to our government, and was instructed to negotiate a treaty of commerce upon their basis. He was asked whether he had any documents to communicate. He replied that he would send them that day. He said he had to communicate some inquietudes respecting the late treaty between the United States and Great-Britain. He observed that it was understood, that the United States had disabled themselves from entering into a new commercial treaty upon a liberal scale with France. The secretary answered that he had determined before he came, to ask the permission of the President to communicate to him a copy of the treaty; and then he might say in what part he supposed that any impropriety with respect to France existed. The President having afterwards assented, the secretary on the same day delivered to Mr. Adet a printed copy of the treaty on which he promised to communicate his remarks.

These remarks dated June 30th, and the Secretary's answer dated July 6th, refusing the objections they contained, I have already noticed. The subsequent proceedings will show either that those objections did not make any strong impressions on Mr. Adet's mind, or that the Secretary's answer had removed them.

On the 30th June 1795, Mr. Adet communicated a part of his instructions relative to "a new commercial treaty and a new consular Convention" to be entered into between France and the United States. The instructions imported that he was only to "prepare with the American government the means and arrangements" of these treaties, and then to communicate them to the committee of Public Safety. The object of the new treaty was declared to be "to found the commercial relations of the two republics upon stipulations more reciprocally advantageous, and more clearly worded than that of 1778, and the object of the Consular Convention to secure the execution of the commercial treaty."

The secretary of state answered on the 1st of July expressing the readiness of the government to open the proposed negotiation; and requested a communication of the dates of the decrees to which Mr. Adet's instruction referred.

On the 8th of July 1795, Mr. Adet replied to the secretary of state "that he neither knew nor possessed any other decree relative to the negotiation to be opened between France and the United States than that of the 5th of February 1793, communicated to us by Citizen Genet." This letter of the 8th was received the 12th accompanied by a note of the latter date apologizing for the delay on account of sickness. On the 12th the secretary of state had written to him, pressing him on the subject of the new negotiation.

On the 16th of July 1795, the secretary of state again wrote to Mr. Adet; and after informing him that as he was not clothed with any very formal authority upon this subject, the President of the United States had thought proper to place him (the Secretary of State) upon the same & no other footing,—the secretary proposed that the negotiation should be conducted in writing, unless when either thought it expedient to have an interview on any particular difficulty. And then assuring Mr. Adet that no unnecessary procrastination should be found in the secretary of state, further proposed, that Mr. Adet should state in the parts of the treaty which he wished to be abolished: 2d, those parts which he wished to be corrected: 3d, those additions which seemed to him desirable: But expressed the readiness of the secretary to adopt any other better mode of conducting the negotiation, if such occurred to Mr. Adet.

On the 20th of July 1795, Mr. Adet mentioning his sickness which for fifteen days had obliged him to abstain from business, replied on the subject of the negotiation in these words "In a few days I shall have the honor of seeing you, and of taking the necessary measures in order to commence the business relative to the digesting of the new treaty and new Consular Convention."

From this detail, it must I conceive be no easy task to find any facts by which Mr. Adet's charge can be supported. What he affects to call "frivolous pretences" are substantial reasons; and in respect to his own advances to treat, the conduct of our government manifests an eagerness to enter on the negotiation; certainly you will discover in it no disposition to elude or to procrastinate.

You will be pleased to observe, sir, that the letter from the secretary of state to Mr. Adet, explaining the manner in which they should proceed in the negotiation is dated the 16th of July and that Mr. Adet's answer agreeing shortly to meet the secretary, in order to take the necessary measures for commencing the business is dated the 20th of July; yet in his note of November 15th 1796, after having charged the government of the United States. "With eluding all advances made by the republic for renewing the treaties of commerce and excusing itself on the most frivolous pretences," after acknowledging that the President had authorized the secretary of state to negotiate, and that the latter had explained the manner of proceeding, he asks "But at what time? When the ratification of the treaty concluded between Lord Grenville and Mr. Jay no longer permitted the undersigned to pursue that negotiation." I am sorry sir, in this place to call your attention to dates. The British treaty was not ratified until the 14th of August 1795, that is about a month after the plan of negotiating with Mr. Adet had

been proposed to him by the secretary of state, and twenty-five days after he had agreed to proceed in it. And if that ratification finally induced him to abandon the idea of negotiating a new treaty between France and the United States, it did not instantly produce the determination. He doubtless perceived that his own objections to the British treaty were obviated by the answer from the secretary of state, and when he acknowledged the receipt of it, he had given up the right of judging of the treaty, whether it was good or bad I shall (says he, in his letter of July 20th 1795) "transmit it (the secretary's answer) to the French government together with my observations and the treaty. In such important circumstances, it is exclusively the province of my government to judge; and I cannot permit myself to decide at all." And then immediately adds—"In a few days I shall have the honor of seeing you, and of taking the necessary measures in order to commence the business relative to the digesting of the new treaty and new Consular Convention." The British treaty then did not obstruct the negotiation, the principles of which might have been agreed on, and the articles drawn into form to be submitted to the respective governments: for that was all the respective negotiators were authorized to do.

Will the minister of the French republic never cease to reproach us with "ingratitude?" If, indeed, "France wrought" as well as "guaranteed" the independence of the United States, as Mr. Adet asserts, "at a time when the might, as the price of that very independence, have granted them less liberal conditions," our obligations are greater than we have hitherto imagined. But it is time that these claims to our gratitude were investigated, and their extent ascertained. We have citizens yet alive who were actors and witnesses of the declaration of our independence, and of the efforts to maintain it, with their effects, prior to our treaty with France. But laying no stress on our own recollections or consciousness, we will resort to the testimony of France herself.

France, by her minister the marquis de Noailles, having, in the declaration of the 13th of March 1778, which I have already quoted, announced to the court of London, the treaty of friendship and commerce she had formed with the United States; and that to maintain the commerce of his subjects with them, which was the object of that treaty, his most Christian majesty had "taken eventual measures in concert with the United States of North America;" that court published a justificative memorial to vindicate to the world the war she had determined to wage against France. In the observations of the court of France on this British memorial, we find the following declarations on the part of France, "While the ambassador of England put the king's patience to the strongest proofs, and while the court of London was constantly repeating denials of justice to his majesty's subjects, at the same time that the British officers continued to desolate them on the sea, an exultation came to pass in America, which essentially changed the face of things in that quarter of the world. This event was the defeat of the army under general Burgoyne. The news of this unexpected disaster, which arrived in Europe, in November 1777, astonished the British ministers, and must have the more sensibly affected them, as it overthrew the plan they had laid for the reduction of the colonies." The observations then suggest that this great event induced, in the British cabinet, the idea of conciliation with America, and of a coalition against the crown of France, in revenge for the supposed aid rendered, by her, to the United States; and to gratify "their most dear and constant wish—that of humbling France."

"It was natural for the British ministry unable to subdue her colonies, to seek to be reconciled to them, and to engage them to espouse her resentment. They might so much the more flatter themselves that they should succeed herein, as the proceedings of France with regard to American privateers, and especially the dislike the king had at all times manifested to any engagement with the Congress, must have given diligent and dissatisfaction to their deputies, and induce them, notwithstanding their well known aversion, to seek even in England, the safety of their country when they failed to find it in France."

"The king, well informed of the plan of the court of London, and of the preparations which were the consequence of it, perceived that no more time was to be lost, if he would prevent the designs of his enemies: His majesty determined, therefore, to take into consideration, at length, the overtures of the Congress."

"The Commissioners [from the United States] proposed to the King a Treaty of Amity and Commerce, and an alliance offensive and defensive, by which his Majesty should engage not only to acknowledge simply and purely the Independence of the United States, but also to guaranty and defend it by force of arms. The King ordered an answer to be given that he could indeed look upon the Independence of the United States as existing; but that it did not belong to him to acknowledge it, because he had not any right to judge of it; neither could he guaranty it, as he did not intend to enter into war for its support. His majesty in consequence refused an offensive alliance, and confined himself to the Treaty of Amity and Commerce. But as it was more than probable that the court of London had formed a design of attacking France his majesty thought he ought to enter into an alliance with the United States, eventual and purely Defensive. The stipulations contained in this second treaty are in substance, that if France should be attacked by the Court of London before the cessation of hostilities between that Court and its Colonies, that the King and the United States should mutually assist each other against the common enemy; That the King should guarantee the Independence and sovereignty of the United States, and that he should not lay down his arms till it should be acknowledged by Great Britain."

Thus it is manifested that the United States were to be left still to fight their own battles unless Great Britain should choose to increase the number of her enemies by attacking France in which case it would be truly the interest of France as of the United States to make it a common cause.

[To be continued.]

\* Obs. p. 60.

† Obs. p. 64.

‡ Obs. p. 66.

§ Obs. p. 67.

\* Mr. Adet has since corrected this date, the decree intended being dated February 19, 1793. This is already published with the State papers of that year, page 15.