

of our national rights, were said to be repealed, to take effect on a subsequent day, at no distant period, the intention being to show full time for the consideration of the measures to this government. The decision was to give all the formalities which such an act would require, through the official channels on both sides, from the French minister of foreign affairs, to the minister of foreign affairs of the United States at Paris.

In consequence of this note, from the French minister of foreign affairs, of the 21st November, 1811, the President proceeded, on the 22nd November, following, to issue the proclamation, enjoined by the act of May 1st, of the year 1808, to declare that all the restrictions imposed by it, should cease and be discontinued, in relation to France and her dependencies. And, in confirmation of the proclamation of the President, the Congress did, on the 22nd March, 1811, pass an act, whereby the non-impaction system provided for by the 3, 4, 5, 6, 7, 8, 9, 10th and 18th sections of the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and her dependencies," was declared to be in force against Great Britain, her colonies and dependencies, with a provision in favour of such vessels or merchandises as might be seized before it was known that Great Britain had revoked or modified her edicts, within the time and in the manner required by the said act, if such should be the case; and with a provision, also, in favour of any ships or cargoes owned wholly by citizens of the United States, which had cleared out for the Cape of Good Hope, or for any other port beyond the same, prior to the second day of November, 1810. Both of these provisions were, in strict justice and good faith, due to the parties to be effected by the law; they were also conformable to the spirit of the arrangement to execute which the law was passed. As Great Britain did not revoke or modify her edicts, in the manner imposed, the first provisions had no effect.

I will now inquire whether France has performed her part of this arrangement.

It is understood that the blockade of the British Isles is revoked. The revocation having been officially declared, and no vessel trading to them having been condemned or taken on the high seas that we know of, it is fair to conclude that the measure is relinquished. It appears, too, that no American vessel has been condemned in France for having been visited at sea by an English ship, or for having been searched or carried into England, or subjected to imposition there. On the sea, therefore, France is understood to have changed her system.

Although such is the light in which the conduct of France is viewed, in regard to the neutral commerce of the United States, since the 1st of November last, it will, nevertheless, be proper for you to investigate fully the whole subject, and to see that nothing has been, or shall be omitted on her part in future, which the United States have a right to claim.

Your early and particular attention will be drawn to the great subject of the commercial relation which is to subsist in future between the United States and France. The President expects that the commerce of the United States will be placed in the ports of France on such a footing as to afford to it a fair market, and to the industry and enterprise of their people a reasonable encouragement. An arrangement to this effect was looked for immediately after the revocation of the decrees; but it appears from the documents in this department that that was not the case; on the contrary, that our commerce has been subjected to the greatest discouragements, or rather to the most oppressive restraints; that the vessels which carried coffee, sugar, &c. though sailing directly from the U. S. to a French port, were held in a state of sequestration on the principle that the trade was prohibited, and that the importation of those articles was not only unlawful, but criminal; that even the vessels which carried the unquestionable productions of the United States were exposed to great and expensive delays, to tedious investigations in various forms, and to exorbitant duties. In short, that the ordinary usages of commerce between friendly nations were abandoned.

When it was announced that the decrees of Berlin and Milan were revoked, the revocation of take effect on the 1st of November last, it was natural for our merchants to rush into the ports of France to take advantage of a market to which they thought they were invited. All these feelings, therefore, have been unjust in regard to the parties who suffered by them; nor can they be reconciled in the respect which was due to this government. If France had wished to exclude the American commerce from her ports, she ought to have declared it to this government, in explicit terms, in which case due notice would have been given of it to the American merchants, who would either have avoided her ports, or gone there at their own hazard. But to suffer them to enter her ports, under any pretext whatever, cannot be justified. It is not known to what extent the injuries resulting from these delays have been carried. It is evident, however, that for every injury thus sustained, the parties are entitled to reparation.

If the ports of France and her allies are not opened to the commerce of the United States, on a liberal scale and on fair conditions, of what avail to them, it may be asked, will be the revocation of the British orders in council? In contending for the revocation of those orders, so far as it was an object of interest, the U. S. had in view a trade with the continent. It was a fair and legitimate object and worth contending for, while France encouraged it. But if she shuts her ports on our commerce, or burdens it with heavy duties, that motive is at an end.

That France has a right to impose such restraints is admitted; but she ought to be aware of the consequences to which they necessarily lead. The least that ought to be expected to follow, would be such countervailing restrictions on the French commerce as must destroy the value of the intercourse between the two countries, and leave to the U. S. no motive of interest to maintain their fight to that intercourse, by a sacrifice of any other branch of their commerce; adequate motives to such a sacrifice could only be found in considerations distinct from any reasonable pretensions on the part of France.

To the admission of every article, the produce of the U. S. no objection is anticipated; nor does there appear to be just cause for any to the admission of colonial produce. A supply of that produce will be annually wanted in France and other countries connected with her, and the U. S. alone can furnish it during the war. It will doubtless be the interest of France and her allies to avail themselves of the industry and capital of the American merchants, in furnishing those articles by which the wants of their people will be supplied and their revenue increased. Several of the colonies belonged to France, and may again belong to her. Great Britain, by securing to her own colonies the monopoly of her home market, lessens the value of the produce of the conquered colonies. France cannot be indifferent to the distresses of her late colonies, nor ought she to abandon because she cannot protect them. In pressing this important object on the government of France, it will not escape your attention, that several important articles, in the list of colonial productions are raised in Louisiana, and will of course be comprised among those of the United States.

You will see the injustice, and endeavour to prevent the necessity of bringing in return for American cargoes sold in France, an equal amount in the produce and manufactures of that country. No such obligation is imposed on French merchants trading to the U. S. They enjoy the liberty of selling their cargoes for cash, and taking back what they please from this country in return, and the right ought to be reciprocal.

It is indispensable that the trade be free; that all American citizens engaged in it be placed on the same footing; and, with this view, that the system of carrying it on by licenses granted by French agents be immediately annulled. You must make it distinctly understood by the French government, that the United States cannot submit to that system, as it tends to sacrifice one part of the community to another, and to give corrupt influence to the agents of a foreign power in our towns, which is, in every view, incompatible with the principles of our government. It was presumed that this system had been abandoned some time since, as a letter from the Duke of Calrose, of 20th Nov. to Mr. Russell gave assurance of it. Should it, however, be still maintained, you will not fail to bring the subject without delay, before the French government, and to bring its immediate abandonment.

The President having, long since expressed his strongest disapprobation of it, and requested that the consuls would discontinue it, it is probable, if they still disregard his injunctions, that he may find it necessary to revoke their commissions. I mention this, that you may be able to explain the motive to such a measure, should it take place, which, without such explanation, might probably be viewed in a mistaken light by the French government.

It is important, that the rate of duties imposed on our commerce, in every article, should be made as low as possible. If they are not, they may produce the effect of a prohibition; they will be sure to depress the article and discourage the trade.

You will be able to ascertain the various other claims which the United States have on France, for injuries done to their citizens, under decrees of a subsequent date to those of Berlin and Milan, and you will likewise use your best exertions to obtain an indemnity for them. It is presumed, that the French government will be disposed to do justice for all those injuries. In looking to the future, the past ought to be fairly and honorably adjusted. If that is not done, much dissatisfaction will remain here, which cannot fail to produce a very unfavorable effect on the relations which are to subsist in future between the two countries.

The first of these latter decrees bears date at Bayonne, on the 17th March, 1808, by which many American vessels and their cargoes were seized and carried into France, and others which had entered her ports, in the fair course of trade, were seized, and sequestered or confiscated by her government. It was pretended, in justification of this measure, that as under our embargo law no American vessel could navigate the ocean, all those who were found on it, were trading on British account and lawful prize. The fact however was otherwise. At the time the embargo was laid, a great number of our vessels were at sea, engaged in their usual commerce; many of them on distant voyages. Their absence, especially as no previous notice could be given to them, was strictly justifiable under the law; and as no obligation was imposed on them by the law to return, they committed no offence by remaining abroad. Other vessels, inconsiderable in number, left the United States in violation of the law. The latter committed an offence against their country, but none against foreign powers. They were not *disfranchised* by the act. They were entitled to the protection of their government, and it had a right to inflict on them the penalty which their conduct had exposed them to. The government of France could withdraw them from neither of these claims. The absence of none of these vessels was a proof that they were trading on British account. The cargoes which they carried with them, the value of which was much enhanced by the embargo, were alone an ample capital to trade on. As the pretext, under which these vessels were taken, is no justification of the act, you will claim an indemnity to our citizens for every species of injury arising from it.

The Rambouillet decree was a still more unjustifiable aggression on the rights of the United States and invasion of the property of their citizens. It bears date on the 23d March, 1810, and made a sweep of all American property within the reach of French power. It was also retrospective, extending back to the 20th May, 1809. By this decree, every American vessel and cargo, even those which had been delivered up to the owners, by compromise with the captors, were seized and sold. The law of March 1st, 1809, commonly called the non-intercourse law, was the pretext for this measure, which was intended as an act of reprisal. It requires no reasoning to show the injustice of this pretension. Our law regulated the trade of the United States with other powers, particularly with France and Great-Britain, and was such a law as every nation has a right to adopt. It was duly promulgated, and reasonable notice given of it to other powers. It was also impartial as related to the belligerents. The condemnation of such vessels of France or England as came into the ports of the United States in breach of this law, was strictly proper, and could afford no cause of complaint to either power. The seizure of so vast a property as was laid hold of under that pretext, by the French government, places the transaction in a very fair light. If an indemnity had been sought for on imputed injury the measure of the injury should have been ascertained, and the indemnity proportioned to it. But in this case no injury had been sustained on principle. A trifling loss only had been incurred, and for that loss all the American property which could be found was seized, involving in indiscriminate ruin innocent merchants who had entered the ports of France in the fair course of trade. It is proper that you should make it distinctly known to the French government, that the claim to a just reparation for these spoliations cannot be relinquished, and that a delay in making it will produce very high dissatisfaction with the government and people of these states.

It has been intimated that the French government would be willing to make this reparation, provided the United States would make one in return for the vessels and property condemned under, and in breach of our non-intercourse law. Although the proposition was objectionable, in many views, yet this government consented to it, to save so great a mass of the property of our citizens. An instruction for this purpose was given to your predecessor, which you are authorized to carry into effect. The influence of France has been exerted to the injury of the United States, in all the countries to which her power has extended. In Spain, Holland and Naples it has been most sensibly felt. In each of these countries the vessels and cargoes of American merchants were seized and confiscated, under various decrees, founded in different pretences, none of which had even the semblance of right to support them. As the United States never injured France, that plea must fail; and that they had injured either of those powers was never pretended. You will be furnished with the documents which relate to these aggressions, and you will claim of the French government an indemnity for them.

The United States have also just cause of complaint against France, for many injuries that were committed by persons acting under her authority. Of these the most distinguished, and least justifiable, are the examples which occurred, of burning the vessels of our citizens at sea. Their atrocity forbid the imputation of them to the government. To it however the United States must look for reparation, which you will, accordingly claim.

It is possible that in this enumeration I may have omitted many injuries of which no account has yet been transmitted to this department. You will have in your power to acquire a more comprehensive knowledge of them at Paris, which, it is expected you will do, and full confidence is reposed in your exertions to obtain of the French government the just measure of redress.

France, it is presumed, has changed her policy towards the United States. The revocation of her decrees is an indication of that change, and some recent acts, more favorable to the commercial intercourse with her ports, the evidence of which will be found in a copy of a letter from her minister here, strengthens the presumption. But much is yet to be done by her, to satisfy the just claims of this country. To revoke blockades of boundless extent in the present state of her marine, was making no sacrifice. She must indemnify us for past injuries, and open her ports to our commerce on a fair and liberal scale. If she wishes to profit by neutral commerce she must become the advocate of neutral rights as well by her practice as her theory. The United States, standing on their own ground, will be able to support those rights with effect, and they will certainly fail in nothing which they owe to their character or interest.

The papers, relative to the *Impetueux*, the *Revanche de Cerf*, and the French privateer seized at New Orleans, will be delivered to you. They will, it is presumed, enable you to satisfy the French government of the strict propriety of the conduct of the United States, in all those occurrences.

The frigate, which takes you to France, will proceed to Holland to execute an order from the Secretary of the Treasury relative to the interest due on the public debt. She will return to France to take Mr. Russell to England, and, after landing him, sail back immediately to the U. S. The interval afforded by a visit to Holland, will be sufficient to enable you to communicate fully and freely with the French government on all the topics, to which it will be your duty to invite its attention, under your instructions. A short detention, however, would

not be objected to, if you deemed it important in the interest of the United States.

(No. 1.)
Extract of a letter from Mr. Barlow to the Secretary of State, dated Paris, Sept. 29, 1811.

I seize the first occasion to announce to you my arrival, though I have very little to announce.

I landed at Cherbourg the 8th of this month, and arrived at Paris the 19th.

The Emperor has been residing for some time at Compeigne, and it unluckily happened that he set out before the coast and for Holland the day of my arrival here.

The Duke of Bassano, Minister for Foreign Relations, came the next day to Paris for two days only, when he was to follow the Emperor to join him in Holland. Gen. Turreau, and others who called on me the morning after I reached Paris, assured me that the Duke was desirous of seeing me as soon as possible and with as little ceremony.

On the 21st I made my first visit to him, which of course I had no other object than that of delivering credentials. I expressed my regret at the Emperor's absence, and the consequent delay of such business as was rendered particularly urgent by the necessity of sending home the frigate and by the approaching session of Congress, as well as by the distressed situation of those American citizens who were waiting the result of decisions which might be hastened by the expositions which I was charged to make on the part of the President of the United States.

He said the Emperor had foreseen the urgency of the case and had charged him to remedy the evil so far as could be done by dispatching with my presentation to his majesty until his return; and I might immediately proceed to business as if I had been presented. He said the most flattering things from the Emperor relative to my appointment. He observed that his majesty had expected my arrival with some solicitude for several months and was disposed to do everything that I could reasonably ask to maintain a good intelligence between the two countries.

The Duke then proposed a second interview for the next day, which he said he hoped would be long & leisurely, that we might go over the whole range of business that was likely to come into discussion between us, declaring that he should be justified by the Emperor in delaying his journey one day for that purpose only, and that he had no other business to detain him in the capital. I accepted the invitation and was with him two hours the next day.

I explained to him with as much precision as possible the sentiments of the President on the most pressing objects of my mission, and threw in such observations as seemed to arise out of what I conceived to be the true interest of France.

He heard me with patience and apparent solicitude, endeavored to explain away some of the evils of which we complain, and expressed a strong desire to remove the rest. He said that many of the ideas I suggested were new to him and very important; that he should lay them before the Emperor with fidelity, and in a manner calculated to produce the most favorable impression, desiring me to reduce them to writing to be presented in a more solemn form, and endeavored to convince me that he doubted not our being able, on the return of the Emperor to remove all obstacles to a most perfect harmony between the two countries.

(No. 2.)
Extract of a letter from Mr. Barlow to the Secretary of State, dated Paris, Oct. 29, 1811.

The Emperor stays in the north much longer than was expected. Having been assured by the minister that he would return by the 15th Oct. and that during his tour he would make no stay in any one place, I concluded, as I had the honor to state to you before, not to follow him. The frigate constitution did not return from Holland until about the time that the Emperor was to have reached Fontainebleau, and during the last fourteen days the public has been in constant expectation of his arrival.

My correspondence with the Minister has been hitherto confined to incidental matters not worth troubling you with.

(No. 3.)
Extract of a letter from Mr. Barlow to the Secretary of State, dated Paris, Nov. 21, 1811.

On the 9th of this month the Duke of Bassano arrived in Paris, and signified his arrival by a circular to the foreign minister here. The next day, at one o'clock, I called at his house, having in my pocket the note dated 10th Nov.

My intention was, if possible, to have an interview with him before he should read the note, to prepare his mind on some points which, being new to him, might be susceptible of further development than it would be convenient to give in writing.

"Not finding the Duke at home, I left the note, enclosing with it a written request for an interview after he should have read the note. As yet I have no answer, but having met him once since, he assured me that a very great press of business occupied him every day at St. Cloud. He gave me no other reason for the delay than that, and I have learnt, through other channels, that they are discussing in the Emperor's councils of commerce and of state the principal points in my note. If this discussion is in good earnest, I shall probably have an answer, of some sort, before many days."

(Included in No. 3.)
Extract of a letter from Mr. Barlow to the Duke of Bassano, Paris, 10th November, 1811.

"For all these considerations and others which I have had the honor to explain to your excellency in conversation, I am confident that I shall urge nothing contrary to the true interests of France, when I propose that his Majesty the Emperor and King should order a prompt and effectual execution of the arrangement of the 5th August and 2d of November, in the true and liberal spirit in which it was proposed, so that the privations which the United States imposed upon themselves, by excluding the productions of Great Britain and her dependencies, should as far as circumstances will allow be compensated by a free access to those of the continent of Europe, and that they may carry thither such means of purchasing those productions as their own soil and industry, those of other neutral nations, and those of the French colonies, will furnish."

"Should his Majesty adopt this principle, the means of arriving at the end are so obvious that it will not greatly add to the length of this note, if I here point them out. First, let the American ships and cargoes now under seizure, capture or sequestration, and the proceeds of such as have been sold, which are reserved for the party having right, be immediately restored to their owners, and they declared free to depart therewith for their country. This article is not intended to embrace any thing but genuine American property as protected by the acknowledged law of nations."

"Second, such property acknowledged to be American, as has been confiscated and no longer, in a state to be restored, will remain to be paid for in some manner the least onerous to the French Treasury, to be determined by a separate convention."

"Third, a signification of his Majesty's pleasure, if such it be, to form a new commercial treaty with the U. S. on principles of reciprocity both with respect to the rate of duties (as far as the different nature of the objects of our mutual commerce will permit) and the facility of buying and selling, entering and departing with such articles shall be agreed on, the produce of their respective countries, colonies, territories, & dependencies."

"One principal reason why a system of this kind has been deferred so long, has doubtless been the difficulty of distinguishing American from English property, and of ascertaining the origin of produce. We regret as much as you can the frauds that have been committed in this respect: our honour, as well as interest, is concerned in suppressing them. We are ready to enact and inflict penalties, and agree with the French government on the marks, signals and other measures most proper to attain the end."

"I beg your Excellency not to consider it improper or indelicate in me to close this note by suggesting a cogent reason for desiring as speedily an answer to the principal propositions as the other weighty concerns of your department will admit. The frigate which brought me to France is detained only for this answer. Congress is

now beginning its session, and the President is anxious to lay before it as early as possible the result of these propositions; and it has happened unfortunately that my arrival here at the moment of the Emperor's departure has already occasioned considerable loss of time."

(No. 4.)
Extract of a letter from Mr. Barlow to the Secretary of State, Paris, 19th December, 1811.

"Since the date of my last (21 November), I have had many interviews with the Minister of Foreign Relations, I have explained several points and urged every argument for as speedy an answer to my note of the 10th as of very serious importance would allow. He always treats the subject with apparent candour and attention, seems anxious to gain information, declares that neither he nor the Emperor, had before understood American affairs in the light in which they now appear, and always assures me that he is nearly ready with his answer."

"But he says, the Emperor's taking so long a time to consider it, and make up his decision, is not without reason, for it opens a wide field for mediation on very interesting matters. He says the Emperor has read the note repeatedly and with great attention, that he told him the reasoning in it was every where just and the conclusions undeniable; but to reconcile its principles with his continental system presented difficulties not easy to remove."

"From what the Emperor told me himself at the last diplomatic audience and from a variety of hints and other circumstances remarked among the people about his person, I have been made to believe that he is really changing his system relative to our trade, and that the answer to my note will be more satisfactory than I had at first expected. But the unexpected and unreasonable delay has almost discouraged me of hope."

(No. 5.)
Extract of a letter from Mr. Barlow to the Secretary of State, dated Paris, Dec. 29, 1811.

"I have now the honor to send you the answer of the Duke of Bassano to my note of the 10th of November, accompanied by a triplicate copy of that note."

"This answer is understood in its most liberal sense, may doubtless be considered full and satisfactory as a basis for the future commercial relations between the two countries; for we can ask nothing better, than a perfect reciprocity of advantages in those relations. But although an official declaration of the Emperor's intention and readiness to conclude a treaty on such principles may be fairly taken as an adoption of the principles yet considering the irritation of the public mind in the United States, arising from recent injuries, and the difficulty with which it can be brought to believe in a change of system so suddenly adopted, and so abruptly announced, I thought it best to obtain, if possible, a more precise declaration as to certain points which had created so much difficulty."

"Accordingly I asked an interview with the Duke for the 28th. I went to him on that day with a paper in my hand, of which I here enclose a translation.

"My intention was to induce him to sign that paper, or the principles it contained, either in its present form or such other form as he might deem more consonant with the dignity of his government, such as putting them into the answer to a letter which I might write him, if he should think that the most eligible method."

"After we had read over the paper together, and I had explained the motives of my proposition, he replied that every one of those principles was adopted by the Emperor and would enter into the treaty, and therefore it would be useless to announce them in a separate declaration. I endeavored to convince him of the advantages that would result to France as well as to the United States from an immediate restoration of commerce among the American Merchants. The great want of such in France as well as Spain, and the accumulation of French produce piling on hand for want of foreign commerce, were sufficient reasons for seizing the first occasion, not inconsistent with the Emperor's general system, for giving activity to neutral capital in the ports of the empire."

"He then copied the heads of my paper and said he would lay the proposition before the Emperor, and give me an answer the next day. I did not however receive his answer till last night. He then invited me to an interview; and, after reading over the paper as before, and commenting on every clause, he declared the Emperor's decision precisely to the following effect: "It is not proper for me to sign this declaration; but you may notify it to your government, word for word, as if it were signed; for the principles are all adopted, and from this day forward they will be in operation. I have given the order to the chief of the customs for what concerns his department; the court of prizes is ordered to expedite its part of the business, and I shall instruct the consuls to give the certificates of origin. But you will observe this regards only the produce of the United States. Colonial produce cannot for the present be admitted, even in a French vessel, on a simple certificate of origin, without a special licence."

"I then desired him to cause one more order to be given from the proper department, to the effect of relaxing the rigidity of prizes. The Emperor owed it to his own dignity to order his consuls to subject, at least, to cost and damages, the owners of such privateers as should capture innocent ships without a pretext, a business that was long known to be carried on, as well it might, be under the present system of certain impunity, with the mere prospect of a great deal of partial plunder, and the hope of an advantageous compromise with the claimants. He acknowledged that something ought to be done in the case."

"His observation on colonial produce induced me to bring up again the subject of special licences, repeating what I had often stated before, the just objection, that the President had instructed me to insist upon against that system. He said that the President desired it, it should be discontinued; but they had not yet been able to find a substitute. He desired to me, as he has often done before, that the Emperor would do any thing on this subject that should be most agreeable to the United States, provided it did not open a door to the introduction of English produce."

"He always insists upon it that the special licenses are a clear advantage, as far as they go, to the commerce and navigation of the U. States. The system is an evasion of favor to them inasmuch as it relaxes the principle of the French navigation act, which confines the carrying trade of the colonies to French ships."

"He added that the Emperor did not pretend that this was out of pure friendship to the Americans. "We have need of coffee and sugar. We can get our supply in this way, but if you can point out another that shall be more agreeable to the President, without giving us the produce of English colonies, we shall adopt it."

"Thus I think, sir, you have the whole idea before you. And I should be glad to receive your father instructions on the subject."

"Should it be the intention of the President that I should proceed in the treaty of commerce, it will be necessary likewise to give me instructions as precise as may be on all the essential points that you wish to enter into it."

(Included in No. 5.)
Translation of a letter from the Duke of Bassano to Mr. Barlow, dated Paris, 27th December, 1811.

The undersigned, minister of foreign relations, has laid before his majesty the Emperor and King the note which Mr. Barlow, minister plenipotentiary of the United States of America, addressed to him on the 10th of last month.

Since the revocation of the decrees of Berlin and Milan, the commerce between France and the United States has had but little activity, the cause must be sought for in the outrages which the British government has exercised against the flag of the United States, and against the French flag, and in the cruises (privateers) which it has established on the ocean and in the Mediterranean, on the coast of France and on those of America.

The undersigned has in his bureau a memorandum of a great number of American vessels seized at the entrance of the rivers of France, and the English papers every day mention that these vessels