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Political.

LETTER

From Mr. Monroe to the Secretary of State, dated Richmond, Feb. 28th, 1808.

Accompanying the message of the President of the United States, received the 22d March, 1808.

It appears by your letter of May 20th, 1807, which was forwarded by Mr. Purviance to Mr. Pinkney and myself, at London, and received on the 16th July, that you had constructed several articles of the treaty, which we had signed with the British commissioners, on the 31st of Dec. 1806, in a different sense from that in which they were conceived by us. As the course we were instructed to pursue, by your letter of February 24th, with regard to that treaty, which was confirmed in that of May 20th, was in no degree dependent on our construction of any of its articles, or on the political considerations which induced us to sign it, we deemed it unnecessary to enter into any explanation in reply, either of our construction of its articles, or of the political considerations alluded to. We thought it more consistent with our duty to look solely to the object of our instructions, and to exert our efforts to accomplish it; and we acted in conformity to that sentiment. The result of those efforts was made known, by the documents which I had the honor to present to you, when I was lately at Washington, being copies of a joint dispatch, which Mr. Pinkney and I had forwarded by Mr. Rose. We had flattered ourselves, that it might have been practicable to obtain the amendments of the treaty which the President desired, as the state of affairs in Europe had become more favorable to such a result; but in that we were disappointed. We found no difficulty in accomplishing the other object, of setting it aside, as we were instructed to do, in case the proposed amendments were not acceded to.

At this time there is no objection to such an explanation, that I am aware of, and there are many reasons why it should be given. You will be sensible that, so far as an unfavorable estimate is entertained of that transaction, it must, in the degree, tend to injure those who gave it the sanction of their names; and you will be equally sensible that, if the United States are in any degree interested in it, at this time, it must consist in its being viewed in a just, rather than an unfavorable light. In retiring from the station which I have lately held, this is the last act of public and private duty, which I have to perform, in relation to it. It is to me, in many views, a painful duty, but still it is one which it is highly incumbent on me to execute.

It is far from being my desire to compromise Mr. Pinkney, in this letter, in the slightest circumstance. In the management of the business which was entrusted to us jointly, we acted with the greatest harmony, and exerted our best efforts to accomplish the object of our instructions. I am not aware that, in speaking of any part of the treaty, I shall give it a construction in which he would not concur; but that presumption is founded altogether on what took place between us in the course of the negotiation. To this communication he is not a party, nor indeed does he know that such a one will be made. In every view, therefore, it is improper; and would be unjust, that he should be considered as having any concern in it.

The impressment of seamen from our merchant vessels is a topic which claims a primary attention, from the order which it holds in your letter, but more especially from some important considerations which are connected with it. The idea entertained by the public is, that the rights of the United States were abandoned by the American commissioners in the late negotiation and that their seamen were left by tacit acquiescence, if not by formal renunciation, to depend for their safety, on the mercy of the British cruisers. I have, on the contrary, always believed, and still do believe that the ground on which that interest was placed by the paper of the British commissioners of Nov. 8, 1806, and the explanations which accompanied it, was both honorable and advantageous to the United States, that it contained a concession in their favor, on the part of Great Britain, on the great principle in contestation never before made by a formal and obligatory act of the government, which was highly favorable to their interest; and that it also imposed on her the obligation to conform her practice under it, to a more complete arrangement should be concluded, to the just claims of the United States. To place this transaction in its true light and to do justice to the conduct of the American commissioners, it will be necessary to enter at some length into the subject.

The British paper states that the king was not prepared to disclaim or derogate from a right on which the security of the British navy might essentially depend, especially in a conjuncture when he was engaged in wars which enforced a necessity of the most vigilant attention to the preservation and supply of his naval force; that he had directed his commissioners to give to the commissioners of the United States the most positive assurance that instructions had been given, and should be executed and enforced, to observe the greatest care in the impressing of British seamen, to preserve the citizens of the United States from molestation or injury, and that immediate and prompt redress should be afforded on any representation of injury sustained by them. It then proposes to postpone the article relative to impressment on

account of difficulties which were experienced in arranging any article on that subject, and to proceed to conclude a treaty on the other points that were embraced by the negotiations. As a motive to such postponement, and the condition to it, it assures us that the British commissioners were instructed still to entertain the discussion of any plan which could be devised to secure the interests of both states, without injury to the rights of either. By this paper it is evident that the rights of the United States were expressly to be reserved, and, as has been most erroneously supposed; that the negotiation on the subject of impressment was to be postponed for a limited time, and for a special object only, and to be revived as soon as that subject was accomplished; and in the interim, that the practice of impressment was to correspond essentially with the views and interests of the United States. It is, indeed, evident from a correct view of the contents of that paper, that Great Britain refused to disclaim or derogate only from what she called her right, as it also is, that as her refusal was made applicable to a crisis of extraordinary peril, it authorized the accommodation if not the just claim that even in that she hereafter yielded.

In our letter to you of Nov. 11, which accompanied the paper under consideration and in that of January 3, which was forwarded with the treaty, these sentiments were fully confirmed. In that of November 11, we communicated one important fact, which left no doubt of the sense in which it was intended by the British commissioners, that that paper should be construed by us. In calling your attention to the passage which treats of impressment, in reference to the practice which should be observed in future, we remarked that the terms "high seas" were not mentioned in it, and added that we knew that the omission had been intentional. It was impossible that those terms could have been omitted intentionally with our knowledge, for any purpose other than to admit a construction which would be confined to the land. I do not mean to imply that it was understood between the British commissioners and us, that G. Britain should abandon the practice of impressment on the high seas altogether. I mean, however, distinctly to state that it was understood that the practice heretofore pursued by her should be abandoned, and that no impressment should be made on the high seas under the obligations of that paper, except in cases of an extraordinary nature to which no general prohibition against it could be construed fairly to extend. The cases to which I allude were described in our letter of Nov. 11. They suppose a British ship of war and a merchant vessel of the United States lying in the Tagus or some other port the desertion of some of the sailors from the ship of war to the merchant vessel, and the sailing of the latter with such deserters on board, they being British subjects. It was admitted that no general prohibition against impressment could be construed to sanction such cases of injustice and fraud; and to such cases it was understood that the practice should in future be confined.

It is a just claim on our part, that the explanations which were given of that paper by the British commissioners when they presented it to us, and afterwards while the negotiation was depending, which we communicated to you in due order of time, should be taken into view, in a fair estimate of our conduct in that transaction. As the arrangement which they proposed, was of an informal nature resting on an understanding between the parties in a certain degree confidential, it could not otherwise than happen that such explanations would be given us in the course of the business, of the views of their government in regard to it. And if an arrangement by informal understanding is admissible in any case between nations, it was our duty to receive those explanations, to give them the weight to which they were justly entitled, and to communicate them to you, with our impression of the extent of the obligation, which they impressed. It is in that mode only that what is called an informal understanding between nations can be entered into. It presumes a want of precision in the written documents connected with it, which is supplied by mutual explanations and confidence. Reduce the transaction to form and it becomes a treaty. That an informal understanding was an admissible mode of arranging this interest with Great Britain is made sufficiently evident by your letter of February 24, 1807, in reply to ours of Nov. 11, of the preceding year.

Without relying, however, on the explanations that were given by the British commissioners of the import of that paper, or of the course which their government intended to pursue under it, it is fair to remark on the paper itself, that as by it the rights of the parties were reserved, and the negotiation might be confined on this particular topic, after a treaty should be formed on the others, Great Britain was bound not to trespass on those rights while that negotiation was depending; and in case she did trespass on them, in any the slightest degree, the United States would be justified in breaking off the negotiation and appealing to force in vindication of their rights. The mere circumstance of entertaining an amicable negotiation by one party for the adjustment of a controversy, where no right had been acknowledged in it by the other, gives to the latter a just claim to such a forbearance on the part of the former. But the entertainment of a negotiation for the express purpose of securing interests sanctioned by acknowledged rights, makes such claim irresistible. We were therefore, decidedly of

opinion, that the paper of the British commissioners placed the interest of impressment on ground which it was both safe and honorable for the U States to admit; that in short it gave their government the command of the subject for every necessary and useful purpose.

Attached to the treaty it was the basis or condition, on which the treaty rested—Strong in its character in their favor on the great question of right, and admitting a favorable construction on others, it placed them on more elevated ground in those respects than they had held before; and by keeping the negotiation open to obtain a more complete adjustment, the administration was armed with the most effectual means of securing it. By this arrangement the government possessed a power to coerce without being compelled to assume the character belonging to coercion, and it was able to give effect to that power without violating the relations of amity between the countries. The right to break off the negotiation and appeal to force, could never be lost sight of in any discussion on the subject; while there was no obligation till necessity compelled it.—If Great Britain conformed her practice to the rule prescribed by the paper of November 8, and the explanations which accompanied it, our government might rest on that ground with advantage; but if she departed from that rule and a favorable opportunity offered for the accomplishment of a more complete and satisfactory arrangement, by a decisive effort, it would be at liberty to seize such opportunity for the advantage of the country.

These considerations, founded on a view of the proposed arrangement itself, furnished strong inducement to us to proceed to the other objects of the negotiation. There were other considerations of a different character, which recommended it with still greater force. Had we refused to proceed in the negotiation, what was the alternative which such a refusal presented to our view? The negotiation would have been at an end, after having failed in all its objects; for if this interest was not arranged, none others could be. The attitude which the governments held towards each other, was in a certain degree hostile. Injuries had been inflicted by one party, and resentment shown by the other, the latter having taken a step in the case of the non-importation law, which was intended to vindicate the public rights and honor by being made the means of obtaining a redress of those injuries. The measure was intended for the ministry of Mr. Pitt, from which the injuries were received, but by the removal of that ministry, and the delay which took place in the passage of the law, it came into operation against the ministry of Mr. Fox and Lord Grenville, who would not have rendered those injuries, and against whom of course such a weapon would not have been raised. Notwithstanding the existence of that law, and the attitude which still remained between the governments, it was impossible to appeal to it as a strong motive of action with the new ministry.—Such an appeal was sure to produce more harm than good. It would have lost us all claim on the generous feelings and liberal policy, which the new ministry was believed to indulge & disposed to adopt towards the United States. The negotiation, therefore, with the new ministry was conducted by policy, as well as by inclination, on friendly and conciliatory principles. Should it fail, however, in its object, and be broken off, the relation between the parties would change in an instant. From that moment the new ministry would stand on the ground of the old one, and the nation be united in all its political parties against us.—The attitude would become in fact, what the exterior announced it to be, hostile, and it was difficult to perceive how it could be changed, and peace be preserved, with honor to the United States. They could not recede from the ground which they had taken, or accept, by compulsion, terms which they had rejected in amicable negotiation. War, therefore, seemed to be the inevitable consequence of such a state of things, and I was far from considering it an alternative, which ought to be preferred to the arrangement which was offered to us. When I took into view the prosperous and happy condition of the United States, compared with that of other nations; that as a neutral power, they were almost the exclusive carriers of the productions of the whole world; and that in commerce they flourished beyond example, notwithstanding the losses which they occasionally suffered I was strong in the opinion that those blessings ought not to be hazarded in such a question. Many other considerations tended to confirm me in that sentiment. I knew that the United States were not prepared for war; that their coast was unfortified, and their cities in a great measure defenceless; that their militia, in many of the states, was neither armed nor trained; and that their whole revenue was derived from commerce. I could not presume that there was just cause to doubt which of the alternatives ought to be preferred. Had it, however, been practicable to terminate the negotiation, without such an adjustment as that proposed, and without taking any decisive measure in consequence of its failure, what was to become of the non-importation law? If suffered to remain in force, it was sure to produce war. Great Britain, it was known, would enter into no arrangement, by treaty, which did not provide for its repeal; and there was little reason to presume, after the rupture of the negotiation, by which the relation between the parties would be less friendly, that she would become more accommodating. It was, on the contrary, fairly to be concluded, that if any arrangement whatever should be practicable, it would be a less advantageous one than that which we had

sanctioned. Some disposition of it was therefore indispensably necessary in any course which might be taken. These considerations had much weight in deciding that which was pursued, and I frankly own, that a sincere desire to afford to the administration an honorable opportunity for its repeal, since, under existing circumstances, it did not seem probable that it could be longer useful, and might be injurious, was a strong motive with me to incur the responsibility which I took on myself in that transaction. To the arrangement proposed we gave our sanction. We undertook to submit it to the consideration of our government, taking care to inform the British commissioners, that we had no power to conclude a treaty that would be obligatory on the United States, which did not arrange in a satisfactory manner the interest of impressment. We agreed also to proceed in a discussion of the other objects of the negotiation, and eventually concluded a treaty; it being understood, from what we had frequently stated, that if our government should disapprove the arrangement relative to impressment, the whole would fall with it.—Thus the United States enjoyed the advantage of being at liberty to accept or reject the arrangement, while on the British government was it binding. With one party it was a project, with the other a treaty. There was in truth nothing unreasonable in this circumstance, as the British commissioners acted in presence of the cabinet, consulted and took its instruction on every point, while our distance from our government rendered such a recurrence to it impossible. This advantage however proceeded from the nature of the transaction; it was not the effect of finesse on our part.

We advanced in the firm belief, that although it fell short of what we had expected to obtain, it was nevertheless, in the then existing state of affairs, such a one as the United States might adopt with credit and advantage. I have no doubt that the British commissioners entertained still greater confidence in such a result. The circumstance of our finally agreeing to sanction the arrangement rather than break off the negotiation, at which issue we had frequently stood in the progress of it, was calculated to make that impression. But it was much strengthened by a knowledge that the whole arrangement would expose them to very severe and probably successful attacks from the opposition, while they had no expectation that it would be popular in the country.

By your letter of Feb. 24, 1807, in reply to ours of Nov. 14th, 1806, the course which the government resolved to pursue was announced. By it we were informed that the president disapproved the informal arrangement proposed by the British commissioners relative to impressment, and was resolved to enter into no treaty with the British government, which when limited to, or short of strict right on every other point, should include in it no article on that particular one; that in case such an article could not be obtained, we should terminate the negotiation without any formal compact whatever, but with a mutual understanding, founded on friendly and liberal discussions and explanations, that in practice each party would entirely conform to what should be thus informally settled between them. And we were authorized to give assurances, in case such an arrangement should be satisfactory in substance, that as long as it should be respected in practice, particularly on the subjects of neutral trade and impressment, the president would earnestly, and probably successfully, recommend to congress not to permit the non-importation law to go into operation; and in the mean time, that he would exercise the power vested in him by an act of congress, if no intervening intelligence forbade it, of suspending its operation till the meeting of congress, who, being in session, would have an opportunity to make due provision for the case; and finally, that if a treaty, which did not provide for the interest of impressment, should have been concluded before the receipt of that letter, we should candidly apprise the British commissioners of the reasons why it would not be ratified, and invite them to enter again on the business with a view to such a result as was desired.

By this letter the arrangement which we had sanctioned, comprising the informal ones relative to impressment, and that by treaty on the other topics, was rejected, and in lieu of it we were instructed to enter into an informal understanding or arrangement of the whole subject, and as was to be inferred from the fair import of the letter, on the same conditions. It was the more to be presumed that the government was willing to accept, in the mode which it proposed, the conditions which we might be able to obtain in the other, from the consideration, that the latter were under its view at the time the instructions were given, by the paper of the British commissioners of Nov. 8th, and our letter of the 11th, and the certainty with which it, as well as we, must have been impressed; that more favorable could not be expected.

In defending myself against the imputation of having sacrificed the rights of our seamen, I shall be permitted to derive support from the conduct of the government itself in the same interest. I have to remark, that I consider the conduct of the government as furnishing the most ample vindication of the American commissioners. The government was equally willing to enter into some arrangement, which should preserve the peace of the country, although it should not accomplish the object which had been so ardently desired. The only difference between the plan which we sanctioned and that which it proposed, was that the whole arrangement should be informal. Had