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Congress of the United States.

THE INSTRUCTIONS.

To the Senate and House of Representatives of the United States.

I now transmit to Congress copies of the instructions to the Plenipotentiaries of the United States, charged with negotiating a Peace with Great Britain, as referred to in my message of the 10th instant.

JAMES MADISON.

Washington, October 13th, 1814.

Mr. Monroe, Secretary of State, to the Plenipotentiaries of the United States, for creating of Peace with Great Britain, dated

Department of State, April 15th, 1814.

GENTLEMEN—I had the honor on the 27th ult. to receive from Mr. Adams two letters, one bearing date on the 20th September, and the other on the 17th October last, communicating the overture of the Emperor of Russia to promote peace by his friendly mediation between the United States and Great Britain. On the day following, Mr. Daschkoff, the Russian Minister, made a similar communication to this department. The subject has, in consequence, been duly considered, and I have now to make known to you the result.

The President has not hesitated to accept the mediation of Russia, and he indulges a strong hope that it will produce the desired effect. It is not known that Great Britain has acceded to the proposition, but it is presumed that she will not decline it. The President thought it improper to postpone his decision, until he should hear of that of the British government. Sincerely desirous of peace, he has been willing to avail himself of every opportunity which might tend to promote it, on just and honorable conditions, and in accepting this overture he has been particularly gratified to evince, by the manner of it, the distinguished consideration which the United States entertain for the Emperor Alexander. Should the British government accept the mediation, the negotiation to which it leads will be held at St. Petersburg. The President commits it to you, for which a commission is enclosed, and he has appointed Mr. Harris Secretary of the mission.

The impressment of our seamen and illegal blockades, as exemplified more particularly in the orders in council, were the principal causes of the war. Had not Great Britain persevered obstinately in the violation of these important rights, the war would not have been declared. It will cease as soon as these rights are respected. The proposition made by Mr. Russell to the British government immediately after the war, and the answer given by this department to Admiral Warren's letter since, show the ground on which the United States were willing to adjust the controversy relative to impressment.

This has been further evinced by a report of the committee of Foreign Relations of the House of Representatives, and an act of Congress passed in consequence of that report. By these documents you will see that to accommodate this important difference, the United States are disposed to exclude British seamen altogether from the American service. This being effectually done, the British government can have no pretext for the practice. How shall it be done? By restraints to be imposed by each nation on the naturalization of the seamen of the other, excluding at the same time all others not naturalized—or shall the right of each nation to naturalize the seamen of the other be prohibited, and each exclude from its service the natives of the other? Whatever the rule is, it ought to be reciprocal. If Great Britain is allowed to naturalize American seamen, the United States should enjoy the same privilege. If it is demanded that the United States shall exclude from their service all native British subjects, a like exclusion of American citizens from the British service ought to be reciprocated. The mode also should be common to both countries. Each should be at liberty to give the same facilities, or be bound to impose the same restraints that the other does. The President is willing to agree to either alternative, and to carry it into effect by the most eligible regulations that can be devised.

If the first alternative is adopted, the extent of the proposed exclusion will depend, on the impediments to naturalization, on the efficacy of the regulations to prevent imposition, and the fidelity of their execution. The greater the difficulty in acquiring the right of citizenship, the easier will it be to avoid imposition, and the more complete the desired exclusion. The law of the last session of Congress relative to seamen proves how sincerely desirous the Legislature as well as Executive branch of our government, is to adjust this controversy on conditions which may be satisfactory to G. Britain. By that law it is made indispensable for every British subject who may hereafter become a citizen, to reside five years without intermission within the United States, and so many guards are imposed to prevent frauds, that it seems to be impossible that they should be eluded. No British subject can be employed in a public or private ship of the United States, unless he

produces to the commander in one instance, and to the collector in the other, a certified copy of the act by which he became naturalized. A list of the crew, in the case of a private ship, must be taken, certified and recorded by the collector, and the consuls or commercial agents of Great Britain may object to any seamen, and attend the investigation. The commander of a public ship receiving a person not duly qualified shall forfeit a thousand dollars, and the commander or owner of a private ship, knowing thereof, five hundred dollars, to be recovered in an action of debt; one-half to the informer and one-half to the United States. It is also made penal, punishable as a felony by imprisonment and labor from three to five years, or by fine from five hundred to one thousand dollars, for any person to forge or counterfeit, or to pass, or use any forged or counterfeited certificate of citizenship, or to sell or dispose of one.

It may fairly be presumed that if this law should be carried into effect, it would exclude all British seamen from our service.

By requiring five years continued residence in the United States, as the condition of citizenship, few if any British seamen would ever take advantage of it. Such as had left Great Britain, and had resided five years in this country, would be likely to abandon the sea forever. And by making it the duty of the commanders of our public, and of the collectors, in the case of private ships, to require an authenticated copy from the clerk of the court, before which a British subject, who offered his service, had been naturalized, as indispensable to his admission, and highly penal in either to take a person not duly qualified, and by allowing also British agents to object to any one offering his service, and to prosecute by suit the commander or collector, as the case might be, for receiving an improper person, it seems to be impossible that such should be received.

If the second alternative is adopted: that is, if all native British subjects are to be hereafter excluded from our service, it is important that the stipulation providing for it should operate so as not to affect those who have been already naturalized. By our law all the rights of natives are given to naturalized citizens. It is contended by some that these complete rights do not extend beyond the limits of the United States; that in naturalizing a foreigner, no state can absolve him from the obligation which he owes to his former government, and that he becomes a citizen in a qualified sense only. This doctrine, if true in any case, is less applicable to the United States than to any other power. Expatriation seems to be a natural right, and by the original character of our institutions, founded by compact, on principle, and particularly by the unequalled investment of the adopted citizen with the full rights of the native, all that the United States could do, to place him on the same footing, has been done. In point of interest, the object is of little importance to either party. The number to be affected by the stipulation is inconsiderable; nor can that be cause of surprise, when the character of that class of men is considered. It rarely happens that a seaman who settles on a farm, or engages in a trade, and pursues it for any length of time, returns to sea. His youthful days are exhausted in his first occupation. He leaves it with regret, and adopts another, either in consequence of marriage, of disease, or as an avocation for age.

To a stipulation which shall operate prospectively only, the same objection does not apply. In naturalizing foreigners, the United States may prescribe the limit to which their privileges shall extend. If it is made a condition that no native British subject, who may hereafter become a citizen, shall be employed in our public or private ships, their exclusion will violate no right. Those who might become citizens afterwards would acquire the right, subject to that condition, and would be bound by it. To such a stipulation the President is willing to assent, tho' he would much prefer the alternative of restraints on naturalization and to prevent frauds; and to carry the same fully into effect, you are authorized to apply all the restraints and checks, with the necessary modifications, to suit the case, that are provided in the act above recited, relative to seamen, for the purposes of that act.

In requiring that the stipulation to exclude British seamen from our service, with the regulations for carrying it into effect, be made reciprocal, the President desires that you make a provision, authorizing the United States, if they should be so disposed, to dispense with the obligations imposed by it on American citizens. The liberal spirit of our Government and laws is unfriendly to restraints on our citizens, such at least as are imposed on British subjects from becoming members of other societies. This has been shown in the law of the last session relative to seamen, to which your particular attention has been already drawn. This provision may likewise be reciprocated if desired.

The President is not particularly solicitous that either of these alternatives (making the proposed reservation in case the latter be) should be preferred. To secure the United States against impressment he is willing to adopt either. He expects in return that a clear and distinct provision shall be made against the practice. The precise form in which it may be done is not insisted on, provided the import is explicit. All that is required is, that in consideration of the act to be performed on the part of the United States, the British Government shall stipulate in some adequate manner, to terminate or forbear the practice of impressment from American vessels.

It has been suggested as an expedient mode

for the adjustment of this controversy that British cruisers should have a right to search our vessels for British seamen, but that the Commanders thereof should be subjected to penalties in case they made mistakes, and took from them American citizens. By this the British Government would acquire the right of search for seamen, with that of impressing from our vessels the subjects of all other Powers. It will not escape your attention that by admitting the right, in any case, we give up the principle, and leave the door open to every kind of abuse. The same objection is applicable to any and every other arrangement, which withholds the respect due to our flag by not allowing it to protect the crew sailing under it.

If the first alternative should be adopted, it will follow, that none of the British seamen who may be in the United States at the time the Treaty takes effect, and who shall not have become citizens, will be admitted into our service, until they acquire that right.

If the second is adopted, the number of native British seamen, who have been naturalized, and will be admissible into our service, will not be believed exceed a few hundred, all others who may be in the United States at the time the Treaty takes effect, or who may arrive afterwards, will be excluded.

As a necessary incident to an adjustment on the principle of either alternative, it is expected that all American seamen, who have been impressed, will be discharged, and that those who have been naturalized, under the British laws, by compulsive service, will be permitted to withdraw.

I have to repeat that the great object which you have to secure, in regard to impressment, is, that our flag shall protect the crew, and providing for this in a satisfactory manner, that you are authorized to secure G. Britain effectually against the employment of her seamen in the service of the U. States. This it is believed would be done by the adoption of either of the above alternatives, and the application to that which may be adopted, of the checks contained in the law of the last session relative to seamen; in aid of which it will be in the power of G. Britain to make regulations operating in her own ports, with a view to the same effect. To terminate, however, this controversy in a manner satisfactory to both parties, the President is willing, should other checks be suggested as likely to be more effectual, consistent with the spirit of our constitution, that you should adopt them. The strong feature of the first alternative which authorizes the naturalization of seamen requires their continued residence in the U. States for five years, as indispensable to the attainment of that right. In case this alternative be adopted, the President is willing, for example, to secure a compliance with that condition, to make it the duty of each alien, who may be desirous to become a citizen, to appear in court every year for the term of five years, till his right shall be completed. This example is given, not as a limitation, but as an illustration of your powers; for to the exclusion of British seamen from our service, no repugnance is felt. To such exclusion the amicable adjustment of this controversy with G. Britain affords a strong motive, but not the only one. It is a growing sentiment in the U. States, that they ought to depend on their own population, for the supply of their ships of war and merchant service; experience has shown it is an abundant resource. In expressing this sentiment, you will do it in a manner to inspire more fully a confidence, that the arrangement which you may enter into, will be carried faithfully into effect, without derogating, however, from the conciliatory spirit of the accommodation.

A strong desire has heretofore been expressed by the British government to obtain of the U. States an arrangement to prevent the desertion of British seamen, when in our ports, and it cannot be doubted, that a stipulation to that effect would be highly satisfactory, as well as useful to G. Britain. It is fairly to be presumed that it, alone, would afford to the British government a strong inducement to enter into a satisfactory arrangement of the differences relating to impressment. The claim is not inadmissible, especially as the U. States have a reciprocal interest in the restoration of deserters from American vessels in British ports. You may therefore agree to an article, such as hath been heretofore authorized by the U. States, which shall make it the duty of each party to deliver them up.

Of the right of the U. States to be exempted from the degrading practice of impressment, so much has been already said, and with such ability, that it would be useless, especially to you, who are otherwise so well acquainted with it, to dilate on its merits. I must observe, however, that the practice is utterly repugnant to the law of nations; that it is supported by no treaty with any nation; that it was never acquiesced in by any; and that a submission to it by the U. States, would be the abandonment, in favor of G. Britain, of all claims to neutral rights, and of all other rights on the ocean.

This practice is not founded on any belligerent right. The greatest extent to which the belligerent claim has been carried, over the vessels of neutral nations, is, to board, and take from them, persons in the land and sea service of an enemy, contraband of war, and enemy's property. All nations agree respecting the two first articles, but there has been and still exists a diversity of opinion as to the last. On that and other questions of considerable importance, disputes have arisen which are yet unsettled. The Empress Catharine of Russia, a distinguished advocate of just principles, pro-

ceeded herself in 1780 at the head of neutral nations, in favor of a liberal construction of their rights, and her successors have generally followed her example. In all the discussions on these topics, we find nothing of the British claim to impressment; no acknowledgment of it in any treaty, or proof of submission to it by any power. If instances have occurred in which British cruisers have taken British seamen from the vessels of other nations, they were, as it is presumed, in cases either not acquiesced in, or of an extraordinary nature only, affording no countenance to their practice and pretension in relation to the United States. Cases of this kind, if such there be, afford no proof of a systematic claim in the British government to impressment, or of submission to it by other powers. This claim has been set up against the United States only, who have in consequence thereof been compelled to discuss its merits.

This claim is in fact traced to another source, the allegiance due by British subjects to their sovereign, and his right by virtue thereof, to their service. This has been distinctly stated in a late declaration by the Prince Regent. Knowing the nature of the claim, we know also the extent of the right and obligations incident to it. Allegiance is a political relation between a Sovereign and his people. It is the obligation which binds the latter in return for the protection which they receive. These reciprocal duties have the same limit. They are confined to the dominions of the sovereign, beyond which he has no rights, can afford no protection, and can of course claim no allegiance. A citizen or subject of one power, entering the dominions of another, owes allegiance to the latter, in return for the protection he receives. Whether a sovereign has a right to claim the service of such of his subjects as have left his own dominions, is a question, respecting which also a difference of opinion may exist. It is certain that no sovereign has a right to pursue his subjects into the territories of another, be the motive for it what it may. Such an entry, without the consent of the other power, would be a violation of its territory, and an act of hostility. Offenders, even conspirators, cannot be pursued by one power into the territory of another, nor are they delivered up by the latter, except in compliance with treaties, or by favor. That the vessels of a nation are considered a part of its territory, with the exception of the belligerent right only, is a principle too well established to be brought into discussion.—Each state has exclusive jurisdiction over its own vessels. Its laws govern in them, and offences against those laws are punishable by its tribunals only. The flag of a nation protects every thing sailing under it, in time of peace, and in time of war likewise, with the exception of the belligerent rights growing out of the war. An entry on-board the vessels of one power by the cruisers of another, in any other case, and the exercise of any other authority over them, is a violation of Right, and an act of hostility.

The British government, aware of the truth of this doctrine, has endeavored to avoid its consequences in the late declaration of the Prince Regent. It has not contended that British cruisers have a right to pursue and search our vessels for British seamen. It asserts only that they have a right to search them for other objects, and being on board for a lawful cause, and finding British seamen there, that they have a right to impress and bring them away, under claim of allegiance. When we see a systematic pursuit of our vessels by British cruisers, and the impressment of seamen from them, not at a port of the enemy, where a regular blockade had been instituted, and by the blockading squadron, but in every part of the ocean, on our coast, and even in our harbors, it is difficult to believe that impressment is not the real motive, and the other the pretext for it. But to place this argument of the British government on the strongest ground, let it be admitted that the entry was lawful, is it so to commit an act, not warranted by the purpose for which the entry was made? There is a levity in this argument, which neither suits the parties nor the subject. The British government founds its right of impressment from our ships on that of allegiance, which is a permanent right, equally applicable to peace and war. The right of impressment, therefore, from the vessels of other powers must likewise be permanent, and equally applicable to peace and war. It would not, however, take this broad ground, least the injustice and extravagance of the pretension might excite the astonishment and indignation of other powers, to whom it would be equally applicable. To claim it as a belligerent right would have been equally unjust and absurd, as no trace of it could be found in the Belligerent Code. The British Government was, therefore, reduced to a very embarrassing dilemma. To acknowledge that it could not support the claim, on either principle, would be to relinquish it, and yet it could rely on neither. It endeavored to draw some aid from both. A state of war exists which brings the parties together, G. Britain, as a belligerent, and the U. States as a Neutral Power. British officers have now a right to board and search American vessels, but for what? Persons in the service of an enemy, contraband of war, or enemy's property? This would not accomplish the end. It is however, the utmost limit of the belligerent right. Allegiance, which is an attribute of sovereignty, comes to her aid, and communicates all the necessary power. The National Character of the neutral vessel ceases. The complete right of sovereignty and jurisdiction over it is transferred