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PUBLIC DOCUMENTS.

NEGOTIATIONS WITH NAPLES.

Mr. Pinkney's official Note to the Neapolitan minister, on the subject of the mission.

EXTRACTS.

Mr. Pinkney to the Marquis di Circello.

NAPLES, AUG. 24, 1816.

The undersigned, envoy extraordinary of the United States of America, has already had the honor to mention to his excellency the Marquis di Circello, secretary of state and minister for foreign affairs of his majesty the king of the two Sicilies, the principal objects of his mission; and he now invites his excellency's attention to a more detailed and formal exposition of one of those objects.

It cannot but be known to his excellency the Marquis di Circello, that, on the first of July, 1809, the minister of foreign affairs of the then government of Naples, addressed to Frederick Degan, Esq., then consul of the United States an official letter containing an invitation to all American vessels, having on board the usual certificates of origin and other regular papers to come direct to Naples with their cargoes; and that the same minister caused that invitation to be published in every possible mode, in order that it might come to the knowledge of those whom it concerned. It will not be questioned, that the promise of security, necessarily implied in this measure, had every title in the actual circumstances of Europe, to the confidence of distant and peaceful merchants. The merchants of America, as was to have been expected, did confide. Upon the credit, and under the protection of that promise they sent to Naples many valuable vessels and cargoes, navigated and documented with scrupulous regularity, and in no respect obnoxious to molestation; but scarcely had they reached the destination to which they had been allured, when they were seized, without distinction, as prize, or as otherwise forfeited to the Neapolitan government, upon pretences the most frivolous and idle. These arbitrary seizures were followed, with a rapacious haste, by summary decrees, confiscating in the name and for the use of the same government, the whole of the property which had thus been brought within its grasp; and these decrees, which wanted even the decent affectation of justice, were immediately carried into execution, against all the remonstrances of those whom they oppressed, to enrich the treasury of the state.

The right of the innocent victims of this unequalled act of fraud and rapine, to demand retribution, cannot be doubted. The only question is, from whom are they entitled to demand it? Those who at that moment ruled in Naples, and were in fact, and in the view of the world, the government of Naples, have passed away before retribution could be obtained, although not before it was required; and if the right to retribution regards only the persons of those rulers, as private and ordinary wrong doers, the American merchant, whom they deluded and despoiled in the garb, and with the instruments, and for the purposes of sovereignty, must despair forever of redress.

The general principle that a civil society may contract obligations, through its actual governments whatever that may be, and that it is not absolved from them by reason simply of a change of government or of rulers is universally received as incontrovertible. It is admitted not merely by writers on public law as a speculative truth, but by states and statesmen, as a practical rule; and, accordingly history is full of examples to prove that the undisturbed possessor of sovereign power in any society, whether a rightful possessor or not, with reference to other claimants of that power, may not only be the lawful object of allegiance but by many of his acts in his quality of sovereign *de facto*, may bind the society, and those who come after him as rulers, although their title be adversary to, or even better than his own. The Marquis di Circello does not need to be informed, that the earlier annals of England in particular, abound in instructions upon this head.

The undersigned having thus briefly explained to the Marquis di Circello the nature of the claim, which the government of the U. States has commanded him to submit to the reflection of the government of his Sicilian majesty, forbears at present to multiply arguments in support of it. He feels assured that the equitable disposition of his majesty renders it perilous the further illustrations of which it is susceptible.

WILLIAM PINKNEY.

The next paper is a letter from Mr. Pinkney to the Secretary of State, dated September 28, 1816, stating that all his exertions have failed to obtain an answer to his official note of August 24. The following is an extract from Mr. P's letter.

It has been mentioned to me by those in whom I have confidence, that this government has been extremely perplexed by the demand contained in my note, and has it under

constant and anxious consideration; that fearing after much consultation to take the ground (suggested for it, as I think, in America) of irresponsibility for such acts of Murat's government as my note set forth, it has been and still is searching for information as to facts; that diligent inquiry, for example, has been made, and is yet making, for the original papers of the different vessels and cargoes, for which we require compensation, or for such evidences as might supply their place; and that it is probable that in the end an attempt will be made to encounter at least a part of our demand with proof (good or bad) that our case is not altogether such as we supposed it to be, in its circumstances.

"I am told their search after the papers of the vessels and cargoes is not likely to be very successful; very few, perhaps none, remain; and it is not easy to conjecture what satisfactory or even plausible substitutes they can procure.

The next document is "Extracts of a letter from Mr. Pinkney, &c. dated Naples, October 15, stating various interviews and conversations between himself and the Marquis di Circello, the Neapolitan Minister; in the course of which Mr. P. announced his intention of departing for St. Petersburg without an answer, if not immediately received—and the Marquis intimated his regret at Mr. P's intended departure, but stating that the answer should be forwarded to him, as soon as the government could possibly act on it, wherever he might direct. This letter concludes as follows:

"Having received my passports, my intention is to commence my journey for St. Petersburg in a very few days. Mr. King left me for Russia about a fortnight ago, as my letter of the 18th September informed you he would, and the gentlemen attached to my legation have gone before me to Rome, where I hope to arrive on Thursday or Friday next.

"Of the manner in which my negotiation has been conducted, I have little to say. Avoiding extremes of every kind, I have sought to write and speak with politeness, but at the same time, explicitly and firmly. My object has been, to let the king and his ministers understand, that the claim must be settled, and to place it upon such ground as to convince them that we are in earnest in considering them as our debtors. Without being studiously conciliatory, I have forborne all menaces.

"They have indeed treated me and my errand with so much respect, that it would have been difficult for me, even if it had been wise and honorable, to endeavor to force the claim upon them, by arrogance and harshness.

"The reasons suggested by this government for a short postponement of its decision, are such as I suppose I could not have quarrelled with, without putting myself in the wrong. They are perfectly respectful to the United States, and of real weight in themselves.

"In not consenting to receive the answer of this government after my departure from Naples, I was a good deal influenced by the apprehension, that they might possibly give me such an answer when absent, as they would not give me if present. I desired, moreover, to ensure my government a just control over the subject, and to the claimants a clear stage for their own private exertions."

The next letter from Mr. Pinkney, at St. Petersburg, of date February 27, 1817, commences as follows:

"Notwithstanding the explicitness of my answer of the 30th of September of the last year, to the proposal contained in the note of the Marquis di Circello of the 27th of the same month, I had scarcely quitted Naples, when he sent after me his reply to my note of the 24th of August. The obstacles which, while I was present, threatened to retard that reply for many a week, and even for months, disappeared with a marvellous rapidity, after I had departed; for the reply passed me on the road to St. Petersburg, and arrived there long before me."

Mr. P's letter goes on to state that, when this reply was tendered to him at St. Petersburg by the Duke of Serra Capriola, the Neapolitan Minister at that Court, he refused to receive it, his functions having ceased as special Minister to Naples. Being entreated to receive it, he at length consented to receive the packet, and transmit it to his government.

There are four notes which passed between Mr. Pinkney and the Duke of Capriola, respecting the difficulty which thus arose.

Next comes the following extract of a letter from Mr. Gallatin, our Minister at Paris, dated

PARIS, 19TH NOV. 1816.

"I received on the 16th inst. a note from the Neapolitan ambassador, enclosing by order of his court, the copy of an official note, dated 15th October last, and addressed by the Marquis di Circello, to Mr. Pinkney, after his departure from Naples. In answer to a verbal inquiry, the ambassador told me, that he did not know whether that note had been directed to Mr. Pinkney, at St. Petersburg, or at any other place on the road. He also said, that his government had authorized him to add to that communication to me any farther observations, which he might deem proper, but that he had abstained from it, knowing that neither he nor myself had any powers on that subject, & wishing therefore to avoid an unprofitable discussion.

"It may be presumed that the Neapolitan government delayed that note, in order to prevent the possibility of a reply; and that their intention in communicating it to me was to hasten its transmission to you. Copies of the

official note itself, and of that of the ambassador to me, are enclosed.

The Official Reply of the Neapolitan Minister concludes the series: the following passages are extracted.

The Marquis di Circello, Minister of Foreign Affairs, at Naples, to Mr. Pinkney, Special Minister of the United States.

NAPLES, 15TH OCTOBER, 1816.

It is among the principles of reason and justice, that a sovereign, who never ceased to be in a state of war with the usurper of his dominions, and who, very far from having afforded grounds for presuming that his rights were waived, as is asserted in the note of the 14th of August, carried into effect, in concert with his ally, England, a powerful expedition in the islands of Procida and Ischia, nearest to the capital of his usurped kingdom, in the year 1809, precisely that in which the confiscation of the American ships at Naples took place.—It is among the principles of reason and justice, that he should not be, on regaining his dominions in process of the war which had compelled him to absent himself from them, held responsible for the excesses of his enemy.

Let then the relations of the usurper, with the powers friendly or allied to France, have been what they may, the inferences which the American merchants may have drawn from them, in relation to the prosecution of their trade at Naples, should not be made to recoil upon the treasury of a sovereign, who not only did not show any, the least, acquiescence in the usurpation; but did all that was in his power, and all that circumstances would permit, to vindicate his abused rights. There is still less foundation for the arguments brought forward in the note of the 24th August, to prove that the Neapolitan nation was in some sort a party to the measures, by which the Americans suffered, and therefore liable, in *solidum*, for the consequences.

If the inhabitants of the kingdom of Naples could only have signified their wishes, these would undoubtedly have been for the maintenance of relations of justice and friendship with the Americans, the only nation, which, by means of its neutrality, might provide a vent for the commodities accumulated through so many years in the kingdom, under the operation of the noted continental system, of ruinous memory.

But every body knows that the Neapolitan nation, prostrated by a foreign domination, was but the mournful spectator and first victim of the arbitrary acts which were daily committed; so far, then, from being able to indemnify others, it would be exceedingly fortunate if she could find means of compensating herself for the losses and immense injuries which she sustained during the occupation of the kingdom.

These considerations would be more than sufficient to prove, that the claims of the American merchants cannot reach either the actual government of his majesty or his people.

But, to make the demonstration complete and to exhibit the question under all its aspects, the undersigned will admit for a moment the absurd hypothesis, that the present government of Naples stands in the place of that of Murat, & has succeeded to all his obligations.

The demand of Mr. Pinkney would not be, on this account, the less unsustainable, since the confiscation and sale of the American vessels and cargoes were acts which proceeded directly from the power and from the will of Bonaparte.—There exists, in fact, in the archives of the treasury, a report of the minister, Agar, who presided over that department in 1809, addressed to Murat, who was then at Paris.

The minister relates, in this report, that two American ships had arrived at Naples, one from Salem, the other, last from Algiers, laden with colonial produce, and that the necessary order had been given to put the same under sequestration, conformably to the direction antecedently issued from higher authority, with respect to the other vessels arrived at Naples before the departure of Murat, for Paris.

He proceeds then to point out the great benefit which the treasury would derive from opening the market to the colonial produce on board those ships, or in the custom house of Naples; by the duties which would be collected upon the sale of it, and upon the export of the oils which the Americans would take as return cargoes.

The minister remarks, in fine, that the confiscation itself of the American vessels and cargoes was but an inconsiderable resource, compared with the very great advantage which would have resulted to the treasury from an active American trade, could it have been tolerated into the ports of the kingdom.

Murat did not deem himself authorized to decide in any way, and submitted the report to his brother in law, Napoleon, who decreed, in margin, that the vessels and cargoes in question should be confiscated, because the embargo laid in the ports of the United States induced him to believe that the produce must be British property, and its introduction into

the continent a breach, therefore, of the infamous Berlin and Milan decrees.

On the disclosure of this decision of Bonaparte in Naples, it was ordered also that the proceeds of the sales should not be paid over to the treasury of the state, but that a separate and special account should be opened for them, which was done accordingly. In order to understand well this distinction, and to be able to draw from it the consequences applicable to the case, it is useful to note, that during the military occupation of the kingdom, there existed a treasury, so called, destined to receive the public revenues, and defray the public charges; and as, among the latter, the support of the luxurious household of Murat, was not the least onerous, accordingly the sums allotted to this purpose were paid into the hands of a particular treasurer, who disposed of them as his master directed.

Besides this particular chest, into which moreover all the proceeds of the private domain were emptied, Murat established another, by the name of separate account of fund, (conto a part) as a receptacle for the sums arising from the sale of the vessels and cargoes confiscated in 1809 and 1812, and also for the profits of the licences, which, in imitation of England and France, he sold to the vessels entering and leaving the ports of the kingdom. The new fund was always considered as appertaining to the extraordinary and private domain of Murat himself. An irrefragable proof of this may be offered. The first article of one of his decrees 25th April, 1812, is conceived in the following terms; "the commission established by our decree of November 30th, 1811, for the purpose of liquidating the accounts of our royal household is, in addition, charged with examining the accounts of the vessels sequestered in our port regarded by us as the property of our extraordinary and private domain."

Besides, it is enough to read the account current, of the cashier of the separate fund, to know that the sums paid into it were dissipated in largesses to the favorites of Murat, in marriage portions to some of his relatives, and other licentious expenses of Murat, and of his wife, especially during their visit to Paris. It appears moreover, that Murat having anticipated, on said fund, a sum of two hundred thousand livres on account of the treasury, towards the cost of the expedition with which, during several months, he menaced Sicily with an invasion from Calabria, the minister of the finances lost no time in reimbursing the fund with proceeds of the public taxes.

From the foregoing statement, two important and obvious consequences are to be drawn. The first is, that Murat only lent his name to the confiscation of American ships as he did in nearly all the other measures pursued in Naples during the occupation of the kingdom. This was no mystery, nor could foreign nations be ignorant of it. Still less could they be acquainted with the extent of the power which Bonaparte usurped, in order to give all possible latitude effect and to his decrees of Milan and Berlin, into countries over which he exerted his fatal influence.

Obstinate in his fantasies, absolute in his will, he studied only to enlarge his sphere of his favorite plan. A mere remonstrance on this head, had Murat allowed himself to prefer on world have cost the latter his crown, Holland furnished an incontestable example of this truth.

Murat, then, let it be repeated, was but the passive instrument of the will of Bonaparte, in the confiscation of the American ships, and if they could give birth to responsibility, such responsibility should no longer be imputed to the country over which he reigned, and still less to the government which has there resumed its lawful authority.

The other, and not less important consequence is, that the treasury, which was the fund of the state, never enjoyed the proceeds of the confiscations, and that, instead of being employed to alleviate the burdens of the people, or applied to the improvement or embellishment of the country as is supposed in the note of the 26th of August, those proceeds only served to feed the caprice and the oriental pomp of the family of Murat and his adherents.

RELATIONS WITH HOLLAND.

The following is the report of the secretary of state relative to our affairs with Holland.

DEPARTMENT OF STATE,
17th March, 1818.

The Secretary of State has the honor of submitting to the consideration of the President the correspondence herewith enclosed between the Envoy Extraordinary of the United States at the Court of the Netherlands, and the Plenipotentiaries appointed by that government for the purpose of renewing and extending the Commercial Treaty already existing between the two countries. The failure of this negotiation is to be attributed principally to two obstacles which arose in the progress of the discussions between the respective Plenipotentiaries; one proceeding from an essential principle in the commercial regulations of this country, and the other from a principle of like character in the kingdom of the Netherlands.

The law of 3d March, 1815, authorizing a partial repeal of the discriminating duties (Documents continued to fourth page.)