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## State Papers

RECEIVED BY THE JOHN ADAMS.

From Gen. Armstrong to Mr. Pinkney,  
 Paris January 25, 1810.

Sir—A letter from Mr. Secretary Smith of the 1st of December last, made it my duty to enquire of his excellency the Duke of Cadore, what were the conditions on which his majesty the emperor would annul his decree, commonly called the Berlin decree; and whether if Great-Britain revoked her blockades of a date anterior to that decree, his majesty would consent to revoke the said decree? To these questions I have this day received the following answer, which I hasten to convey to you by a special messenger.

### ANSWER,

"The only condition required for the revocation by his majesty the emperor of the decree of Berlin, will be a previous revocation by the British government of her blockades of France or part of France, (such as that from the Elbe to Brest, &c.) of a date anterior to that of the aforesaid decree."

Mr. Pinkney to Marquis Wellesley, dated March 7.

My Lord—I have had the honour to receive your lordship's answer of the 2d instant, to my letter of the 15th of last month, concerning the blockades of France, instituted by Great-Britain during the present war, before the 1st day of January, 1807.

I infer from that answer that the blockade notified by Great-Britain in May, 1806, from the Elbe to Brest, is not itself in force, and that the restrictions, which it established, rest altogether, so far as such restrictions exist at this time, upon an order or orders in council issued since the 1st day of January, 1807.

I infer also, either that no other blockade of France was instituted by Great-Britain during the period above mentioned, or that, if any other was instituted during that period, it is not now in force.

May I beg your Lordship to do me the honour to inform me whether these inferences are correct, and if incorrect, in what respect they are so.

The Marquis Wellesley to Mr. Pinkney, dated Foreign Office, March 20th, 1810.

The blockade, notified by G. Britain in May, 1806, has never been formally withdrawn; it cannot therefore be accurately stated, that the restrictions, which it established, rest altogether on the order of council of the 7th of January, 1807; they are comprehended under the more extensive restrictions of that order. No other blockade of the ports of France, was instituted by Great-Britain between the sixteenth of May, 1806, and the seventh of January, 1807, excepting the blockade of Venice, instituted on the 27th of July, 1806, which is still in force.

Copy of a Letter from Gen. Armstrong to the Duke of Cadore, dated Paris, 21st February, 1810.

The Minister Plenipotentiary of the United States has the honour to submit to his Excellency the Duke of Cadore the copy of a letter this instant received from Bayonne, and begs from him an explanation of the circumstances mentioned in it.

"The Ministerial dispatch under date of the 5th inst. is arrived in St. Sebastian, bearing an order for the immediate transportation, in small vessels, of all the sequestered American cargoes to Bayonne, to be placed in the Custom-house there. This news is public at St. Sebastian; but what is not so as yet; is, that the same order says

"1st. That these cargoes are to be sent to Bayonne, whether the commodities of which they are composed may have come from English commerce or from the produce of the soil of the United States.

"2dly. That they should be sent to the Custom-house of that place to be sold there."

The Minister Plenipotentiary offers to his Excellency the assurances of his high consideration.

Gen. Armstrong to Mr. Smith—Paris Feb. 18, 1810.

Sir—I wrote a few lines to you yesterday, announcing the receipt and transmis-

sion of a copy of the Duke of Cadore's note to me of the 14th inst.

After serious reflection I have thought it best to forbear all notice at present of the errors, as well of fact as of argument, which may be found in the introductory part of that note; to take the minister at his word; to enter at once upon the proposed negotiation, and for this purpose to offer to him a project for renewing the convention of 1800.

This mode will have the advantage of trying the sincerity of the overtures made by him, and perhaps of drawing from him the precise terms on which his master will accommodate. If these be such as we ought to accept, we shall have a Treaty, in which neither our rights nor our wrongs will be forgotten; if otherwise, there will be enough, both of time and occasion, to do justice to their policy and our own, by a free examination of each.

[No 2.] From Gen. Armstrong to the Duke of Cadore, dated Paris, March 10, 1810.

Sir—I had yesterday the honour of receiving a verbal message from your excellency, stating, that "his majesty had decided that the American property seized in the ports of Spain should be sold, but that the money arising therefrom should remain in depot."

On receiving this information, two questions suggested themselves—

1st. Whether this decision was, or was not, extended to ships, as well as the cargoes? and,

2d. Whether the money arising from the sales which might be made under it, would or would not be subject to the issue of the pending negotiation?

The gentleman charged with the delivery of your message not having been instructed to answer these questions, it becomes my duty to present them to your excellency, and to request a solution of them.

Nor is it less a duty on my part, to examine the ground on which his majesty has been pleased to take this decision, which I understand to be that of *reprisal*, suggested for the first time in the note you did me the honour to write to me on the 14th ultimo. In the 4th paragraph of this note, it is said that

"His majesty could not have calculated on the measures taken by the United States, who, having no grounds of complaint against France, have comprised her in their acts of exclusion, and since the month of May last have prohibited the entry into their ports of French vessels, by subjecting them to confiscation."

It is true that the United States have since the 20th of May last forbidden the entry of French vessels into their harbours and it is also true that the penalty of confiscation attaches to the violation of this law. But in what respect does this offend France? Will she refuse to us the right of regulating commerce within our own ports? Or will she deny that the law in question is a regulation merely municipal? Examine it both as to object and means—

what does it more than forbid American ships from going into the ports of France, and French ships from coming into those of the United States? And why this prohibition? To avoid injury and insult; to escape that lawlessness, which is declared to be "a forced consequence of the decrees of the British council." If then its object be purely defensive, what are its means? Simply a law, previously and generally promulgated, operating solely within the territory of the United States, and punishing alike the infractors of it, whether citizens of the said States, or others: And what is this but the exercise of a right common to all nations, of excluding at their will foreign commerce, and of enforcing that exclusion? Can this be deemed a wrong to France? Can this be regarded as a legitimate cause of reprisal on the part of a power, who makes it the first duty of nations to defend their sovereignty and who even denationalizes the ships of those who will not subscribe to the opinion.

But it has been said that the "United States had nothing to complain of against France."

Was the capture and condemnation of a ship driven on the shores of France by stress of weather and the perils of the sea—nothing? Was the seizure and sequestration of many cargoes brought to France in ships violating no law admitted to regular entry at the imperial custom houses—nothing? Was the violation of our maritime rights, consecrated as they have been by the solemn forms of a public treaty—nothing? In a word, was it nothing that our ships were burnt on the high seas, without other offence than that of belonging to the United States; or other apology, than was to be found in the enhanced safety of the perpetrator?—Surely if it be the

duty of the United States to *resent* the theoretical usurpations of the British orders of Nov. 1807, it cannot be less their duty to complain of the daily and practical outrages on the part of France! It is indeed true that were the people of the United States destitute of policy, of honour and of energy (as has been insinuated) they might have adopted a system of discrimination between the two great belligerents; they might have drawn imaginary lines between the first and second aggressor; they might have resented in the one a conduct to which they tamely submitted in the other, and in this way have patched up a compromise between honour and interest, equally weak and disgraceful. But such was not the course they pursued, and it is perhaps a necessary consequence of the justice of their measures that they are this day an independent nation. But I will not press this part of my subject, it would be affrontful to your excellency (knowing as you do, that there are not less than one hundred American ships within his majesty's possession or that of his allies) to multiply proofs that the U. S. have grounds of complaint against France.

My attention is necessarily called to another part of the same paragraph, which immediately follows the quotation already made. "As soon," says your excellency, "as his majesty was informed of this measure (the non-intercourse law) it became his duty to retaliate upon the American vessels, not only within his own territories, but also within the countries under his influence. In the ports of Holland, Spain, Italy and Naples, the American vessels have been seized, because the Americans had seized French vessels."

These remarks divide themselves in the following heads:

1st. The right of his majesty to seize & confiscate American vessels, within his own territories.

2d. The right to do so within the territories of his allies; and

3d. The reason of that right, viz. "because Americans had seized French vessels."

The first of these subjects has been already examined; and the second must be decided like the first, since His Majesty's rights within the limits of his ally cannot be greater than within his own. If then it has been shewn, that the non-intercourse law was merely defensive in its object; that it was but intended to guard against that state of violence which unhappily prevailed; that it was restricted in its operation to the territory of the United States, and that it was duly promulgated there and in Europe before execution, it will be almost unnecessary to repeat, that a law of such description cannot authorise a measure of reprisal, equally sudden and silent in its enactment and application, founded on no previous wrong, productive of no previous complaint, and operating beyond the limits of his majesty's territories & within those of sovereigns, who had even invited the commerce of the U. S. to their ports.

It is therefore the third subject only, *the reason of the right*, which remains to be examined; and with regard to it I may observe, that if the alleged fact which forms this reason be unfounded, the reason itself fails and the right with it. In this view of the business I may be permitted to enquire, when and where any seizure of a French vessel has taken place under the non-intercourse law? and at the same time to express my firm persuasion, that no such seizure has been made: a persuasion founded alike on the silence of the government & of the journals of the country, & still more on the positive declaration of several well informed and respectable persons who have left America as late as the 26th of December last. My conclusion therefore is—that no French vessel having violated the law, no seizure of such vessels has occurred, and that the report which has reached Paris is probably founded on a circumstance altogether unconnected with the non-intercourse law or its operation.

Though far from wishing to prolong this letter, I cannot close it without remarking the great and sudden change wrought in His Majesty's sentiments with regard to the defensive system adopted by the United States. The law, which is now believed to furnish ground for reprisal, was first communicated to His Majesty in June or July last, and certainly did not then excite any suspicion or feeling unfriendly to the American government. Far from this, its communication was immediately followed by overtures of accommodation, which, though productive of no positive arrangement, did not make matters worse than they found them.

On the 22d of August last I was honoured with a full exposition of the views and

principles which had governed, and which should continue to govern His Majesty's policy in relation to the United States, and in this we do not find the slightest trace of complaint against the provisions of the law in question.

At a period later than the 22d of August, an American ship, destined to a port of Spain, was captured by a French privateer. An appeal was made to His Majesty's minister of war, who, having submitted the case, received orders to *liberate all American vessels destined to Spanish ports, which had not violated the Imperial decrees.*

Another American ship, at point of time still later than the capture of the preceding, was brought into the port of Bayonne, but *having violated no law* of His Majesty, was acquitted by his council of prizes; and lastly—

In the long conversation I had the honour of holding with your Excellency on the 25th of January, no idea of reprisal was maintained by you nor suspected by me; but on the contrary, in speaking of the seizure of American property in Spain, you expressly declared, that it was not a *confiscation.*

Can proofs be more conclusive, that from the first promulgation of the law down to the 25th of January last, nothing in the nature of reprisal was contemplated by His Majesty?

What circumstance may have since occurred to produce a change in his opinion, I know not; but the confidence I feel in the open and loyal policy of His Majesty, altogether excludes the idea, that the rule was merely found for the occasion, and made to justify seizures, not otherwise justifiable.

Extract of a letter from General Armstrong to Mr. Smith, dated Paris, the 4th April, 1810.

After seven weeks detention in England, the John Adams has at length got back to France.—She arrived in the roads of Havre on the 28th ult.

I informed Mr. Champagny, 1st. that Mr. Pinkney had not been able to send by this conveyance the result of his application to the British government concerning the blockades of France prior to the Berlin decree; but that he hoped to be able to send it in a few days by another conveyance; and 2d. that if he (Mr. Champagny) had any thing to communicate which would have the effect of changing the present relations of the two countries, and which he wished to be early known to the government of the United States, he would do well to let me know it within 24 hours, as the messenger would leave Paris within that time. To this message I received from him the following answer: That

"For some days past nothing in the nature of business and unconnected with the marriage of the Emperor could be transacted; and that for some days to come the same cause of delay would continue to operate; that my letters were still before the Emperor, and that he would seize the first moment to get some decision in relation to them."

Thus you see every thing is yet in air.

Extract of a letter from General Armstrong to Mr. Smith, dated Paris, 7th April, 1810.

"The Emperor left Paris two days ago for St. Cloud, whence he goes to Compeigne, where he will remain till Easter. It is not probable that I shall have an answer to my propositions till he returns to Paris. The day before he set out he gave me a ship to carry myself and family to the United States. The minister recommended that I should not pin myself down to a day as to departure, as circumstances might make it proper for me to stay some what longer than I now intended. The treaty between France and Holland was ratified the 30th March, and will be published this day in Holland. I am assured that it contains the following article:

"Toutes les Marchandises venues sur les batimens Americains entres dans les ports de la Hollande depuis le 1er Janvier, 1809, seront mis sous le sequestre et appartienront a la France pour en disposer selon les circonstances et les relations politiques avec les Etats Unis."\* You will see by the copy enclosed of a decree of the king of Naples, that he has put his gains beyond the reach of negotiation. The ports of Prussia are opened to our commerce. Avoid both Prussia and Denmark till you have other assurances.

\* All the merchandise conveyed into the ports of Holland on board American vessels, since the first day of January, 1809, shall be put under sequestration, subject to the disposition of France, according to circumstances, and the political relations with the United States.