

DOCUMENTS

Which accompanied the message of the President of the United States to both Houses of Congress,

January 19, 1797.

Letter to Mr. Pinckney, Minister Plenipotentiary of the United States to the French Republic.

[Continued.]

BUT Mr. Adet says, "That Mr. Jay's negotiation was enveloped from its origin in the shadow of mystery." And to whom was our government bound to unveil it? to France or to her Minister—Mr. Adet should never or not have complained. And was it for this to make us a dependence on the French Empire that our alliance was formed? Did we stipulate to submit the exercise of our sovereignty (if it is not a contradiction in terms) to the direction of the government of France? Let the treaty itself furnish the answer. "The essential and direct end of the present defensive alliance is to maintain effectually the liberty, sovereignty, and independence absolute and unlimited, of the said United States, as well in matters of government as of commerce." So likewise the treaty of Amity and Commerce in its preamble, declares that his most Christian Majesty and the United States, willing to fix the rules which ought to be followed relative to the correspondence and commerce which they desire to establish between their respective countries, have taken "for the basis of their government, the most perfect equality and reciprocity;"—"and reserving to each party the liberty of admitting or of its pleasure other nations to a participation of the same advantages." Corresponding with this declaration in our treaty of Amity and Commerce with France, is the declaration of the Marquis de Noailles, her Ambassador at the court of London, on the 13th of March 1778, five weeks after the treaty was signed. Some passages in this declaration are so pertinent to the subject in discussion, I shall quote them at length.

"The undersigned Ambassador of his most Christian Majesty, has received express orders to make the following declaration to the court of London."

"The United States of North America, who are in full possession of Independence, as pronounced by them on the 4th of July 1776, having proposed to the King to consolidate by a formal convention, the connection, begun to be established between the two nations, the respective Plenipotentiaries have signed a treaty of friendship and commerce, designed to serve as a foundation for their mutual good correspondence."

"His Majesty being determined to cultivate the good understanding subsisting between France and Great-Britain, by every means compatible with his dignity, and the good of his subjects, thinks it necessary to make this proceeding known to the court of London, and to declare, at the same time, that the contracting parties have paid great attention not to stipulate any exclusive advantages in favour of the French nation, and that the United States have reserved the liberty of treating with every nation whatever upon the same footing of equality and reciprocity." Why after all this, do we hear from Mr. Adet the complaint, that the negotiations of the British treaty were secretly conducted? In other words, that in exercising their absolute and unlimited rights of "government and commerce" the United States did not lay open to the French Minister or his government the instructions to our envoy for settling our own disputes and regulating our commerce with Great-Britain? So far as candour and friendship required, a communication was made to the French Minister. He was officially informed, "That Mr. Jay was instructed not to weaken our engagements to France." This instruction was obeyed, Mr. Jay having taken care to insert in the 25th article of the treaty this explicit stipulation, that "nothing in this treaty contained shall be construed or operate contrary to former and existing public treaties with other sovereigns or states."

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The government gave a further proof of its candor and friendship by communicating to the French Minister the *treaty itself*, prior to its ratification, "in order to enable him to make such observations thereon as he might judge proper." These observations you will see in Mr. Adet's letter to the Secretary of State, of June 30, 1795; and the refutation of his objections in the Secretary's answer, dated the 6th of July following.

With these facts in view, facts of which the chief are drawn from our treaties with France, and from her own acts and laws, what opinion is to be formed of Mr. Adet's declaration, "That the Executive Directory regards the treaty of commerce concluded with Great Britain as a violation of the treaty made with France in 1778, and equivalent to a treaty of alliance with Great-Britain?"

I will now advert to the charge, "That far from offering the French the succours which friendship might have given without compromising it, the American government in this respect violated the letter of treaties."

As far as I can discover, the latter part of this charge is rested wholly on the 17th article of the commercial treaty; which, therefore, it will be necessary to examine. The stipulations are mutual; but the examination will be simplified by considering their application to France alone. The 17th article then declares—

1st. That the ships of war and privateers of France may freely carry the ships and goods taken from their enemies into the ports of the United States, without being obliged to pay any fees to the officers of the Admiralty or any other judges.

2d. That such prizes are not to be arrested or seized when they enter the ports of the United States.

3d. That the officers of the United States shall not make any examination concerning the lawfulness of such prizes: but

4th. That they may hoist sail at any time, and depart and carry their prizes to the places expressed in their commissions.

5th. That, on the contrary, no shelter or refuge shall be given in the ports of the United States, to such as shall have made prize of the subjects, people or property of France; but if such shall come in, being forced by stress of weather or the danger of the sea, all proper means shall be vigorously used that they go out and retire from thence as soon as possible.

It will also be convenient here to notice the stipulations contained in the 22d article. These are,

1st. That foreign privateers not belonging to French subjects or citizens, having commissions from any other Prince or state in enmity with France, shall not fit their ships in the ports of the United States.

2d. Nor sell their prizes, nor in any other manner exchange their ships, merchandizes, or any other lading.

3d. Nor purchase victuals, except such as shall be necessary for their going to the nearest part of the Prince or state from which they have commissions.

The cases that have occurred in the course of the present war in relation to our treaty with France, particularly the 17th and 22d articles just mentioned, have led to numerous discussions, in which several points have been deliberately settled either by legislative or executive acts, or by judicial decisions.

The first important executive act was the proclamation of neutrality by the President of the United States. This was issued on the 22d of April 1793.

At the next meeting of Congress, on the 3d of December 1793, the President laid this proclamation before both Houses. The Senate, in their address, in answer to the President's speech, thus express their opinion of the proclamation:

"We deemed it a measure well-timed, and

"wise: manifesting a watchful solicitude for the welfare of the nation, and calculated to promote it."

The address of the House of Representatives was *unanimously* agreed to. We read in it this paragraph, "The United States having taken no part in the war which had embraced, in Europe, the powers with whom they have the most extensive relations, maintenance of peace was justly to be regarded as one of the most important duties of the magistrate charged with the faithful execution of the laws. We accordingly witness, with approbation and pleasure, the vigilance with which you have guarded against an interruption of that blessing, by your proclamation, admonishing our citizens of the consequences of illicit or hostile acts towards the belligerent parties; and promoting, by a declaration of the existing legal state of things, an easier admission of our right to the immunities belonging to our situation."

Yet this is the instrument, thus approved by Congress, and whose only object was to caution our citizens to avoid certain acts which would violate the laws of nations, which Mr. Adet has ventured to call "an insidious proclamation of neutrality!"

The next executive act noticed by Mr. Adet, is the letter of the 4th of August 1793, written by the President's command, by the Secretary of the Treasury, to the Collectors of the customs, and accompanied by the rules which the President had adopted, for preventing all armaments in favour of any of the belligerent powers. These rules were considered as just and necessary deductions from the laws of neutrality established and received among nations. The letter from the Secretary of the Treasury is explanatory of these rules, and among other instructions, particularly points the Collectors to the 17th and 22d articles of our treaty with France; lest by inattention or misconception of them, the might be injured and her enemies benefited. The letter concludes with exhorting the Collectors to execute those instructions "with vigilance, care, activity and impartiality"—"because omissions would tend to expose the government to injurious imputations and suspicions, and proportionably to commit the good faith and peace of the country." How could such rules, with such reasons to enforce them, not elicit censure? They were framed and required to be executed with strict impartiality; and consequently were to prevent Frenchmen continuing those aggressions on our sovereignty and neutrality, which had been commenced under Mr. Genet's orders, and which were calculated to involve us in a war with Britain, Spain and Holland, for at that time these were all combined against France. Frenchmen were to have no other preferences than those secured to them by treaty; (except that they were not forbidden to sell their lawful prizes in our ports) and our citizens were to be restrained from committing hostilities under the banners of France, as well as those of other powers.

The third offensive act was the President's submitting to Congress their measures, and suggesting the expediency of extending our legal code, giving competent jurisdiction to the courts, and providing adequate penalties to prevent or punish violations of the laws of nations.

The next complaint respects the act of Congress passed on the 5th of June 1794, "for the punishment of certain crimes against the United States;" being those to which their attention had been called by the President's speech. Mr. Adet asks, "What was its result?" and gives himself the following answer. "In consequence of this law, the greater part of the French privateers have been arrested, as well as their prizes; not upon formal depositions, not upon established testimony, not upon a necessary body of proofs, but upon the simple information of the Consul of one of the powers at war with the French Republic, frequently upon that of sailors of the enemy powers, sometimes according to the orders of the Government, but often