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DOCUMENTS,

As referred to in the PRESIDENT'S SPEECH in both HOUSES of CONGRESS, on the 15th of May, 1797.

(Continued from our last.)

By the 15th article of the treaty concluded between his Majesty and the United States, it is stipulated that the subjects of the King, and the American citizens, may navigate with their vessels and cargoes freely to all the ports which are not declared blockaded, making such as are declared blockaded, making neutral baggage the goods which they carry on board; so that they cannot be seized though they should belong to an enemy. His Majesty has been pleased to adopt a principle so useful to humanity, although for reasons hinted above, it was to operate more advantageously to the American citizens than to his Majesty's subjects.

His Majesty ought to have expected, on the part of the American government, dispositions equally friendly; and as their adoption would have been injurious to those powers who should have been the objects of the treaty, that this should form a general principle in all their engagements of a like nature; but unfortunately, the 17th article of the English treaty has dissipated this agreeable hope, and not only permits English vessels to take any port into port thole of America, upon the arbitrary ground of suspicion, but also to take any enemy's property or merchandise found under the American flag. In short, the principle, *That free ships make free goods*, was destroyed; and his Majesty is reduced to the disadvantageous situation of seeing the property of his subjects seized with impunity, and the safeguard of neutrality, whilst a state which requires that his squadrons and ships should protect English property, on board of American vessels. Can it then be supposed, without good reason, that the King intended voluntarily to go into a stipulation, the observance of which should require from his subjects nothing but detriment and injury? An adherence to the principle adopted by the King implicitly binds him to a reciprocity complete in all its circumstances.

There are no injuries to Spain, arising out of the 17th article of the treaty with Great Britain, less palpable. From it, like the preceding, arise great losses to the American navigation; but the damages which the subjects of his Majesty and his royal service experience, are of much greater consideration. By that article, England and the United States agree, to pay for ship building, tar, rosin, copper sheets, sails, hemp, cordage, and generally whatever may serve directly to the equipment of vessels, shall be declared contraband. The 15th article of the treaty with Spain, enumerating those articles which should be exempted, it stipulated, that all kinds of iron, brass, copper, tin, lead, zinc, steel, sail cloth, anchor, wood of all kinds, and all other things proper for the construction and repair of vessels, shall be looked upon as articles of free commerce. What then is the consequence of these contradictory stipulations? Is not abandoning to England the exclusive privilege of naval stores? And is it not giving to a maritime war like the present, a power, which she used to the injury of Spain, which the latter must suffer from avarice or the high price of an article so her absolutely necessary? You will say in reply, that Spain entered voluntarily into these stipulations—but would it ever have been expected that America should have made almost at the same moment, an article, as should cause the King, by his conduct, to reject of his generosity and great liberality.

In the preamble to the Spanish treaty, its object is said to be for the mutual advantage and reciprocal utility of both countries; I leave you to determine what advantage either Spain or America can derive from the 15th and 16th articles of that treaty, whilst some of the 17th article of the English treaty remain in full force.

As far I have represented merely the injuries done to the interests of Spain—but I shall now

state to you a point in which her rights are essentially concerned; I mean the navigation of the Mississippi.

The just ground upon which Spain refused to acknowledge the mutual and illegal cession which England made to the United States, in the 8th article of the treaty of 3d September, 1783, of the free navigation of the Mississippi to the ocean; the necessity in which America has found herself of recurring to a special treaty for obtaining it, and above all the tenor of the 4th article of the said treaty, in which it is agreed, that the free navigation of the said river to the ocean belongs exclusively to the subjects of the King and to the citizens of the United States, had given his Majesty reason to believe that the federal government, by this stipulation, annulled, as illegal, the claim which it had made with England, as to this point, in the 8th article of the treaty of 1783. But his Majesty has seen with equal surprise, that the United States not only pretend to confirm that right to England by the 3d article of their commercial treaty, but that they have since the conclusion of that with Spain, in which the navigation of the Mississippi is confined exclusively to the Spaniards and Americans, agreed to the explanatory article signed here by yourself and the English Charge des Affaires—Mr. Bond, on the 4th of May, 1796, in which it is declared, *That no stipulation or treaty concluded since by either of the contracting parties with any other power or nation is understood in any manner to derogate from the right to the free communication and commerce guaranteed by the 3d article of the treaty to the subjects of his Britannic Majesty.*

The King my master finds so much the more difficulty in reconciling this stipulation concerning the navigation of the Mississippi in article 3d of the English treaty, confirmed by the explanatory article of the 4th of May, with the 4th article of that with Spain, as on examination the original right of England, none is found to exist, and the United States alone hold that which Spain ceded in the said article of the treaty with them. In order to convince you of this, let us examine the stipulations of the former treaties—from which I give the following extract.

By the 6th article of the preliminary treaty made on the 3d November, 1762, between France and Great Britain, and by the definitive treaty signed on the 10th of February, 1763, it is stipulated that all that part of Louisiana situated on the east of the Mississippi, excepting New Orleans and its dependences, should belong to Great Britain.

By the 8th article of the provisional treaty concluded between the United States of America and Great Britain, on the 30th November, 1782, and the definitive treaty signed on the 3d of September, 1783, it is stated that the navigation of the Mississippi from its source to the ocean shall forever remain and be free to the subjects of Great Britain and the citizens of the United States.

By the preliminary articles of the treaty concluded between Spain and England, and the definitive treaty signed on the 3d of September, 1783, Great Britain ceded to Spain all East and West Florida, which two provinces were the only territory that that nation had remaining in this part of the continent.

In the 5th article, in which this cession is stipulated, not a single word is said relative to the navigation of the Mississippi, nor do the other articles say any thing on the subject.

When England signed these preliminary articles with the United States of America, in 1782, Great Britain still held all the right to East and West Florida, because then she had not ceded forever those provinces to Spain, as is proved afterwards by the treaty of 1783, and without the least mention therein of the Mississippi.

Therefore England, having ceded East and West Florida, in 1783, and not having reserved the right to the navigation of the Mississippi, of course lost it entirely when she made Spain mistress of the two banks.

The only right which the United States had in the navigation of that river was founded on the stipulations derived from England—but having changed their political existence by the declaration of their independence, and having by this act separated their interest from thole of Great Britain, the liberty of navigating the Mississippi did not follow to the United States, but by a special treaty which has just been concluded between Spain and this country.

So far good—How can the United States with the consent of Spain, cede to England the right of navigating the Mississippi which is granted only to themselves? and in virtue of what privilege can the federal government give the navigation of this river to a nation who has renounced all her rights through the medium of solemn treaties and who not only does not hold a single port but also does not possess a single inch of land on its banks?

This simple exposition in conjunction with the opinion of all jurists, that the navigation of rivers naturally belongs to him who possesses the two banks, evidently manifests the injury done to the rights of Spain, in the 3d article of the English treaty and the explanatory article signed on the 4th of May 1796.

The King of Spain desirous of preserving the best harmony and friendship with this country, as promoter of the interests of his subjects, has ordered me to represent to this government what I have just mentioned, and his Majesty relying upon the equity of his demands hopes that the United States, animated by the same sentiments, will come to a composition, which without injuring the American citizens, shall assure the happiness of his subjects, and guard the rights of his sovereignty.

I with pleasure embrace this opportunity of renewing my wishes to leave you, and that God may preserve your life many years.

Your most obedient servant,

CARLOS MARTINEZ YRUJO.

Timothy Pickens, Esq. } Secretary of State. } Philadelphia, 6th May, 1797.

Faithfully translated from the original, by GEORGE TAYLOR, junr.

[No. XVII.]

Letter from the Secretary of State to the Minister of his Catholic Majesty, dated May 17, 1797. Department of State, Philadelphia, May 17, 1797.

SIR, I have the honour to acknowledge the receipt of your letter, of the 6th inst. which has been laid before the President of the United States. It contains three subjects of complaint arising out of the treaty of Amity, Commerce and Navigation between the United States and Great Britain.

1. That the principle, *That free ships make free goods*, is thereby destroyed; the 17th article not only permitting English vessels to take and carry into port thole of America, upon the arbitrary ground of suspicion, but also to take and seize enemy's property or merchandise found under the American flag.

2. That by the 8th article of that treaty, timber for ship building, tar, rosin, copper in sheets, sails, hemp and cordage, and generally whatever may serve directly to the equipment of vessels, are declared contraband.

3. That by the 3d article of that treaty, and the explanatory article added thereto, the United States have ceded and confirmed to Great Britain the right of navigating the river Mississippi; a right which you say the United States themselves acquired only by virtue of their treaty with Spain.

Your letter also contains various intimations, which, in connection with these three topics of complaint, it will be proper for me to notice.

It is very true that our treaty with Spain was received throughout the United States with satisfaction and general approbation; because it closed a dispute which had been pending many years between the two countries, by his Catholic Majesty's acceding to the claims of the United States (which they deemed founded in