ation, and the United States experience from it many of the advantages calculated to result from carrying the original plan into execution, and consistently with both our honor and interest. At all events, I am deeply impressed with the opinion, that the post we have secured here should not be abandoned, nor terms of peace precipitately embraced; indeed it were to be wished that the effect of the success of a co-operation might be tried. It would very probably be a death blow to the Barbary system. Any accommodation savoring of relaxness would as probably be death to the navy, and a wound to the national honor. If it is determined either to proceed or hold a position here, further supplies of cash and provisions must immediately be sent to the coast.

From reasons which will suggest themselves from preceding observations, it would not be good policy in Hamet Bashaw to levy contributions during the contest with his brother, lest it should alienate his friends. On the contrary, he ought to be enabled to move with a liberal hand. Cash will do much with the inhabitants of this country: even those whom it will not engage to fight, will by it be engaged not to fight; with it we can pass generally. But if here and there we find a walled town or a garrison impervious to its influence, cannon balls and bayonets come in as irresistible agents. The convention I have entered into with Hamet Bashaw may be useful in case he succeeds in getting repossession of his government, otherwise it can do no mischief, even if ratified, as will appear by the precaution in the second article.

Extract of a letter from commodore Samuel Barron to Tobias Lear, esq. dated Malta, 18th May, 1805.

The recent dispatches from Mr. Eaton have been communicated to you. From their tenor and the knowledge I have within a short time obtained of certain features in the character of Sidi Hamet bashaw, I must candidly own that I have no longer the same expectations which I once entertained of the success of the co-operation with him. His want of energy and military talents, his total deprivation of means and resourses, the great expence already incurred, and the large sum which would be required, according to Mr. Eaton's statement, for pursuing the object; a sum far exceeding both the resources placed at my disposal, and the powers vested in me by my instructions, compel me to relinquish the plan. Indeed, on mature reflection I am of opinion, that if the ex-bashaw, having received this impulse from our strength, and being put into possession of Derne, the province where his interest is supposed to be the strongest, has not in himself sufficient energy, address and courage, and cannot command sufficient means to move on with firm steps towards the usurper's residence, whilst we second his operations by sea, he must be considered no longer a fit subject for our support or co-operation. I am preparing to send provisions to the coast for the subsistence of the crews of the Argus brig & Nautilus schooner, which remain there at Mr. Mr. Eaton's request, and by the sloop Hornet which conveys them, I shall send such instructions to that gentleman, and the officers with him, as further reflection and the nature of your determination, on this letter, may dictate. Whatever may be the final result of this co-operation, I cannot reject the belief, that it has had a powerful effect upon the reigning bashaw; and it may be fairly presumed that the gallant conduct of our friends in the affair at Derne, and the capture of that place, will have their influence, and dispose him to moderate his pretensions and to think seriously of peace. The complaining condition of some of the ships of our squadron, is not among the least important consideration of the present moment; three of the frigates are in such a state, as, in my opinion and in that of the commanders, renders them unfit to encounter the severity of another winter's blockade, without undergoing considerable repairs.

These facts and considerations, for the due appreciation of which you, sir, are fitted by your talents and the length and particular line of your experience, seem to point out the present as auspicious beyond any former occasion, and indeed as the very moment for attempting a negociation; especially, when we combine with these reflections the certainty that our force, respectable as it is, is yet greatly exaggerated at Tripoli, and consider the effect which such a view of the enemy, added to the movements of his brother, must have on the mind of Jussoff bashaw. Strongly persuaded that your conclusions upon these points have anticipated my own, I am induced to state to you my earnest wish that you may deem it expedient to meet the overture lately made through the Spanish consul, by his excellency, so far as to found on it the commencement of a negociation. I cannot entirely suppress another motive, which I confess weighs painfully on my mind. I trust I feel as becomes an American, and that I know what an American ought to suffer when the interests and honor of his country call on his fortitude. Were I deficient in these respects, or misled by unreflecting compassion, I am well assured that captain Bainbridge and his unfortunate comrades would be first in deprecating this deficiency. But I know the value of such a man as captain Bainbridge, and of his officers, and I am persuaded that I speak the language of our country, when I declare, that as they lost their liberty in her defence and her service, no reasonable and honorable occasion should be neglected which affords a prospect of releasing them from the bondage of a bigoted and unfeeling tyrant.

In communicating these sentiments, you, sir, will do me the justice to believe, that I discard every idea of any real point of national honor or advantage being sacrificed to the attainment of their emancipation, weighing that honor and advantage by the practice of powerful nations; but I must contend that the liberty and perhaps the lives of so many valuable and estimable Americans ought not to be sacrificed to points of honor, taken in the abstract. Should the event justify my hopes and expectations of your coincidence with me on this interesting subject, and you determine on going to Tripoli, captain Barron, commanding the Essex frigate, who is under sailing orders for the blockade, will be instructed to wait your arrangements and convey you thither.

I beg leave to add my assurances, that in case you determine on this step, sanguine as my expectations will be of the issue, I shall not relax in the smallest degree from hostile preparations, well aware that the best assistant which an able negociation can have is an energetic display of force and means at the very moment as if peace were despaired of.

COPY.

Tobias Lear to commodore Samuel Barron.

Malta, May 19, 1805.

I had the honor last evening to receive your letter of yesterday, on the subject of opening a negociation with the bashaw of Tripoli. Most sincerely do I lament the long and severe illness you have suffered, and under the effects of which you still labor; and I am fully persuaded that no consideration would lead you to relinquish the command vested in you by the government of our country, but a thorough conviction that your retaining it when unable to perform the duties inseparable from the station, would be injurious to the cause in which we are engaged; and I am also persuaded that when such conviction arises, all personal considerations will yield to your patriotism. I have maturely considered the several points mentioned in your letter, relative to a negociation with the bashaw of Tripoli; and upon a view of my instructions from the government of the United States on that subject, I conceive it my duty to endeavor to open and bring to a happy issue a negotiation for peace, consistent with the tenor of these instructions, whenever the commander of our naval force in this sea, shall judge that the occasion is proper and favorable; as it is presumed that the bashaw will be impressed by the aspect or operations of that force, and as this is in your opinion a proper occasion, I shall hold myself in readiness to proceed in a few days on that business, with captain Barron, in the United States' frigate Essex, which you are so good as to say will wait my arrangements.

I presume, as captain Rodgers, who is your second in command, and who will of course take the command of the squadron, if your health, as you apprehend, should compel you to relinquish it, is now off Tripoli, and may be possessed of some information relative to our affairs with that regency, which has not reached you, that he will be fully advised of the motives which have induced this measure, and instructed to give it all the facility which his judgment may suggest.

Although I cannot, sir, agree with you in opinion, that any impression favorable to us has been made on the mind of the bashaw from our co-operation with his brother thus far, excepting what may arise from the undaunted bravery and perseverance of the force of our countrymen at Derne, which will be to him a further proof of what we can do alone against him; yet I am of opinion that as he has discovered a disposition to open a negociation, we should embrace it, to see if such terms can be made as are admissible on our part, and to release our unfortunate countrymen out of his power, whose fate ought not to depend on small punctilios.

COPY.

Commodore Barron to Captain Hull, of the Argus.

Malta, May 19, 1805.

Your several communications were received by the Hornet, which did not arrive here until the 16th, having met with head winds and heavy gales.

Your various information is under my particular attention. The state of my health and my anxiety to dispatch the sloop without loss of time, does not allow me to enter in o lengthy observations. Nor is it indeed necessary. The letter I have written to Mr. Eaton, by this conveyance and which he will communicate to you, will, no doubt, determine him and the officers to leave the coast, as a measure rendered necessary by existing circumstances, and especially by the intention of the consul general to open a negotiation with Jussuf, reigning bashaw of Tripoli. You will, therefore, as soon as the requisite arrangements are made, return with the vessels under your command to Syracuse, to which place it is contemplated to transfer head quarters, in the course of a few days. Lieut. Evans is instructed to deliver the stores which have been laden in the sloop, to you, to be distributed according to your discretion. You will understand those stores are intended for the use of the crews of the United States vessels, and the christians under the command of Mr. Eaton.

Nothing material has occurred in our affairs since your departure. Mr Evans will be able to inform you of every thing worthy of notice. I have likewise sent with Mr. Evans, 2,000 dollars, (Spanish) in specie, which will serve to extinguish any individual engagements that you or Mr. Eaton may have contracted at Derne.

I look anxiously for further intelligence from Derne.

Commodore Barron to William Eaton, esq.

Malta, May 19, 1805.

Sir,

By the Hornet sloop, which arrived in this harbor on the 16th inst. (having had a tedious passage) I had the honor of receiving your dispatches of 29th ult. and 1st instant, announcing the capture of Derne, after a contest, in which permit me to observe, that your conduct and that of your companions in arms, will not discredit the character which our countrymen have established among the nations of Barbary. I have perused with deserved attention the arguments and reasons adduced in your letter of the 1st. on the subject of pursuing the co-operation with Sidi Hamet Bashaw. Being myself too weak for the exertion of letter writing, and my secretary writing with difficulty, owing to an inflamation in his eyes, it is impossible for me to enter into a lengthy reply nor does it indeed appear necessary. The business is now arrived at that point, where, if the ex-bashaw, after being put in possession of Derne, his former government, and the district in which his interest is most powerful, has not in himself energy and talent and is so destitute of means and resources, as not to be able to move on with successful progress, seconded by our naval force acting on the coast, he must be held as unworthy of further support, and the co-operation as a measure too expensive and burthensome, and too little pregnant with hope or advantage, to justify its further prosecution; for whatever, sir, may have been once the intentions of government on this subject, and whatever your ideas, touching those intentions, I feel that I have already gone to the full extent of my authority The instructions from the navy department on this particular point, with which you are not unacquainted, fall short of that unlimited discretion and power of application as relates to funds, insisted on in your letter, and are totally silent in regard to the quantity and description of supplies and stores, which you mention to have been in the contemplation of government to furnish to the bashaw; hence you will be sensible, that without taking a latitude that would involve me in a sum of responsibility, which it were the extreme of folly and rashness to encounter, I cannot proceed further. Independent of this consideration, it may not be improper to state, that I have not at my disposal funds sufficient to meet the large sums, which, according to your calculation, would be required to pursue the plan with effect. With respect to any engagement to Sidi Hamet, I cannot consider them as binding, or definite. We have, by our resources and your valor and enterprise, placed him at the post from which he was driven, when first he solicited the aid and support of our arms, and in the "most valuable province of Tripoli;" in performing which, we have, I conceive, fulfilled every pledge, and that he can neither charge us with bad faith in our engagements, or with injustice to himself. His want of those qualities so essential in the character of a commander, and especially to a prince contending for his throne, is a serious obstacle to the advancement of his cause, not to be surmounted even by the existence and manly exertion of them, in those about his person. But it is what we had no reason to anticipate, and still less to suppose, that when master of the finest province in his kingdom, where his influence is greatest and his adherents most numerous, his situation would not be materially altered, and himself as destitute of means to carry on the contest, as when he was brought from his exile in Egypt. In short, sir, the matter reduces itself to this: we are willing and ready to support the bashaw, by a union of operations on the coast, so long as the war with Tripoli continues; but you will state explicitly to his excellency, that our supplies of money, arms and provisions, are at an end, and that he must now depend on his own resources and exertions. This determination will suggest to you and your comrades that line of conduct most prudent to be adopted in the present posture of affairs. I have lost no time in dispatching the Hornet with a supply of provisions, for the crews of the Argus and Nautilus, and the christians under your command, and I hope she will arrive in time to prevent your suffering from want.

I have now to acquaint you with an occurrence in our affairs, interesting in itself, and momentous as relates to your situation. In consequence of recent advices from Tripoli, I have thought it my duty state to the consul general, col. Lear (now at this place) my candid opinion that the present is a moment highly favorable to treat for peace, and a communication has this moment been handed me from that gentleman, expressing his determination to meet the overture lately made by the reigning bashaw, so far as to found on it the commencement of a negociation, and to proceed to Tripoli in the Essex frigate, in the course of this week. From a variety of concurring circumstances, the present appears to be a period propitious to such a step, and I cannot help indulging sanguine hopes that a very short time will restore capt. Bainbridge and his unfortunate companions to freedom and their country. It would be useless in me to say any thing on the effect which this measure must needs have on your situation and determinations; it is a measure which was anticipated in my letter to you by capt. Hull, and as such, the intelligence of it will not, I presume, reach you unprepared. The interests of Sidi Hamet will not be overlooked. It is with col. Lear's express sanction that I state to you his intention to endeavor at stipulating some conditions for the unfortunate exile, provided this can be done without any considerable sacrifice of national advantage on our part, and without giving up points that are essential,

I have sent by lieut. Evans 2000 Spanish dollars, which he is directed to deliver to you or capt. Hull. This sum will serve to extinguish any little engagements you may have contracted at Derne.

I am extremely anxious for further intelligence from you, and remain,

With much respect, &c.

(Signed,) S. BARRON.

Extract of a letter from Robert Denison, secretary to the commander of the Mediterranean squadron, to the secretary of the navy, dated

MALTA, 22d May, 1805.

It appears, by a variety of letters which have been received, that the bashaw is seriously disposed and earnestly desirous for peace with the U. S. and what confirms this idea beyond all doubt is the receipt by col. Lear, of a letter, written at the express solicitation of the bey, by the Spanish consul, with overtures for opening a negociation, and accompanying a teschera or passport, under the bey's seal, guaranteeing the inviolability of any person or persons sent to Tripoli to treat of peace. These direct evidences of a pacific disposition in the bashaw were a few days ago prefaced by a communication to commodore Barron from Mr. Nissen the Danish consul, written at the desire of the minister, Sidi Mahomet Doghies, expressing the minister's sincere and earnest wish for the re-establishment of peace, and recommending that a person should be sent over immediately to commence a negociation. In consequence of these repeated and unequivocal manifestations of a disposition, on the part of the enemy, to accommodate differences, the commander in chief thought it his duty officially to communicate to the consul general his opinion that the present moment is favorable for opening a negociation, and the latter having expressed his coincidence therewith, the measure has been agreed upon, and col. Lear is making arrangements to proceed, on board the Essex frigate, to the coast of Tripoli, in the course of 2 or 3 days. Commodore Barron entertains the most sanguine hopes of the happy issue of this measure, and anticipates, with not less confidence than pleasure, the speedy emancipation of capt. Bainbridge and his suffering companions. I think it is not hazarding too much to say there is scarcely a doubt but the business will be honorably and satisfactorily terminated in less than a fortnight.

Article 3d of the preliminary articles of a treaty of peace to be entered into between the President and citizens of the United States of America, on one part, and the bashaw, bey and subjects of Tripoli, in Barbary, on the other part.

Upon the conclusion of a peace, as aforesaid, between the United States and the regency of Tripoli, all the forces of the United States which have been, and may be, in hostility against the bashaw of Tripoli, in the province of Derne, or elsewhere, within the dominions of the said bashaw, shall be withdrawn therefrom, and no supplies shall be given by, or in behalf of the said United States, during the continuance of the peace aforesaid, to any of the subjects of the said bashaw, who may be in hostility against him, in any part of his dominions; and the Americans will use all means in their power to persuade the brother of the said bashaw, who is co-operating with them at Derne, &c. to withdraw from the territory of the said bashaw of Tripoli; but they will not use any force or improper means to effect that object; and in case he should withdraw himself as aforesaid, the bashaw engages to deliver up to him his wife and children, now in his power.

(Signed)

TOBIAS LEAR,

Commissioner in behalf of the United States for negociating a peace with his excellency the bashaw of Tripoli.

(To be continued.)

MESSAGE

From the President of the United States, respecting the violation of neutral rights; the depredations on the colonial trade, and impressments of American seamen.

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

In my message to both Houses of Congress, at the opening of their present session, I submitted to their attention, among other subjects, the oppression of our commerce and navigation by the irregular practices of armed vessels, public and private, and by the introduction of new principles, derogatory of the rights of neutrals, and unacknowledged by the usage of nations.

The memorials of several bodies of merchants of the United States are now communicated, and will develope these principles and practices, which are producing the most ruinous effects on our lawful commerce and navigation.

The right of a neutral to carry on commercial intercourse with every part of the dominions of a belligerent, permitted by the laws of the country (with the exception of blockaded ports, and contraband of war) was believed to have been decided between Great Britain & the United States, by the sentence of their commissioners, mutually appointed to decide on that & other questions of difference between the two nations; and by the actual payment of the damages awarded by them against Great Britain, for the infractions of that right. When, therefore, it was perceived that the same principle was revived, with others more novel, and extending the injury, instructions were given to the minister plenipotentiary of the United States at the court of London, and remonstrances duly made by him, on this subject, as will appear by documents transmitted herewith. These were followed by a partial and temporary suspension only, without any disavowal of the principle. He has, therefore, been instructed to urge this subject anew, to bring it more fully to the bar of reason, and to insist on rights too evident, and too important to be surrendered. In the mean time, the evil is proceeding under adjudications founded on the principle which is denied. Under these circumstances the subject presents itself for the consideration of congress.

On the impressment of our seamen, our remonstrances have never been intermitted. A hope existed at one moment, of an arrangement which might have been submitted to, but it soon passed away, and the practice though relaxed at times in the distant seas, has been constantly pursued in those in our neighborhood. The grounds on which the reclamations on this subject have been urged, will appear in an extract from instructions to our minister at London, now communicated.

TH: JEFFERSON.

Jan. 17, 1806.

DOCUMENTS.

Extract of a letter from the secretary of state to James Munroe, Esq. dated,

Department of State, April 12, 1805

"The papers herewith inclosed explain particularly the case of the brig Aurora.

"The sum of the case is, that whilst Spain was at war with Great Britain, this vessel, owned by a citizen of the United States, brought a cargo of Spanish produce, purchased at the Havanna, from that place to Charleston, where the cargo was landed, except an insignificant portion of it, and the duties paid, or secured, according to law, in like manner as they are required to be paid, or secured, on a like cargo, from whatever port, meant for home consumption; that the cargo remained on land about three weeks, when it was reshipped for Barcelona, in old Spain, and the duties drawn back, with a deduction of three and a half per cent, as is permitted to imported articles in all cases, at any time within one year, under certain regulations, which were pursued in this case; that the vessel was taken on her voyage by a British cruiser, and sent for trial to Newfoundland, where the cargo was condemned by the court of vice admiralty; and that the cause was carried thence, by appeal, to Great Britain, where it was apprehended that the sentence below would not be reversed.

The ground of this sentence was, and that of its confirmation, if such be the result, must be, that the trade in which the vessel was engaged was unlawful, and this unlawfulness must rest, first, on the general principle assumed by Great Britain, that a trade from a colony to its parent country, being a trade not permitted to other nations in time of peace, cannot be made lawful to them in time of war; secondly, on the allegation that the continuity of the voyage from the Havanna to Barcelona was not broken by landing the cargo in the United States, paying the duties thereon, and thus fulfilling the legal pre-requisites to a home consumption; and, therefore, that the cargo was subject to condemnation even under the British regulation of January, 1798, which so far relaxes the general principle as to allow a direct trade between a belligerent colony, and a neutral country carrying on such a trade.

With respect to the general principle which disallows to neutral nations in time of war, a trade not allowed to them in time of peace, it may be observed.

First, That the principle is of modern date; that it is maintained, as is believed, by no other nation but Great Britain; and that it was assumed by her under the auspices of a maritime ascendancy, which rendered such a principle subservient to her particular interest. The history of her regulations on this subject, shews that they have been constantly modified under the influence of that consideration. The course of these modifications will be seen in an appendix to the fourth volume of Robinson's Admiralty Reports.

Secondly, That the principle is manifestly contrary to the general interest of commercial nations, as well as to the law of nations settled by the most approved authorities, which recognises no restraints on the trade of nations not at war, with nations at war, other than that it shall be impartial between the latter, that it shall not extend to certain military articles, nor to the transportation of persons in military service, nor to places actually blockaded or besieged.

Thirdly, That the principle is the more contrary to reason and to right, inasmuch as the admission of neutrals into a colonial trade shut against them in times of peace, may, and often does, result from considerations which open to neutrals direct channels of trade with the parent state, shut to them in times of peace, the legality of which latter relaxation is not known to have been contested; and inasmuch as a commerce may be, and frequently is opened in time of war, between a colony and other countries, from considerations