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*Letter from Mr. Madison to Mr. Monroe——Concluded.*

*On Article VI.* The fictitious blockades proclaimed by Great Britain, and made the pretext for violating the commerce of neutral nations, has been one of the greatest abuses ever committed on the high seas. During the late war they were carried to an extravagance which would have been ridiculous, if in their effects they had not inflicted such serious and extensive injuries on neutral nations. Ports were proclaimed in a state of blockade, previous to the arrival of any force at them, were considered in that state without regard to intermissions in the presence of the blockading force, and the proclamations left in operation after its final departure, the British cruizers during the whole time seizing every vessel bound to such ports, at whatever distance from them, and the British prize courts pronouncing condemnations whenever a knowledge of the proclamation at the time of sailing could be presumed, although it might afterwards be known that no real blockade existed. The whole scene was a perfect mockery, in which fact was sacrificed to form, and right to power and plunder. The United States were among the greatest sufferers; and would have been still more so, if redress for some of the spoliations proceeding from this source, had not fallen within the provisions of an article in the treaty of 1794.

From the effect of this and other arbitrary practices of G. Britain, on the temper and policy of neutral nations towards her; from the spirit of her treaty made near the close of the late war with Russia, from the general disposition manifested at the beginning of the present towards the U. States, and the comparative moderation observed in Europe with respect to blockades; (if indeed the two cases of the Weser and Elbe are not to be excepted) it was hoped that the mockeries and mischiefs practised under the name of blockades would no where be repeated. It is found, however, that the W. Indies are again the theatre of them. The three entire and extensive islands of Martinique, Guadaloupe and St. Domingo have been published as in a state of blockade, although the whole naval force applied to the purpose is inconsiderable; although it appears that a part of this inconsiderable force is occasionally seen at the distance of many leagues at sea; although it does not appear that more than one or two ports at most have at any time been actually blockaded; and although complaints are heard, that the British ships of war do not protect their own trade, against the numerous cruizers from the islands under this pretended blockade.

Inclosed herewith are three letters on this subject; two from me, the first to Mr. Thornton, the second to Mr. Merry, and the third from Mr. Merry to me. You will observe that he does not pretend to justify the measures pursued in the West Indies; but on the contrary wishes them to be regarded as proceeding from an officer who does not pursue the intentions of his government. Still such measures prove that no general regulations or orders have been yet issued by that government against the evil, as might reasonably have been expected, and that a stipulated security against it, is an object as important as it is just.

In the two letters to Mr. Thornton and Mr. Merry, the ground is marked out on which you will be able to combat the false blockades, and to maintain the definition of a real one, contained in the proposed article which is a literal copy from the 4th article of the Russian treaty above cited. In addition to these letters, you will find inclosed a letter of the of to Mr. Pinckney, in which some views are taken of the subject, which may also be of use in your discussions with the British government.

*On Article VII.* This article is due, if not to all neutrals, at least to the United States, who are distinguished by the distance of their situation. Decisions of the British court of admiralty, have so far respected this peculiarity as to admit a want of information as a plea for going to a blockaded port, where such a plea would be refused to less remote countries. But more than this may fairly be claimed. A vessel knowing that a particular blockade existed two months before, may well conjecture that before her arrival at the port, which will require two months more, the blockade will have ceased; and may accordingly clear and steer for such a port with an honest intention, in case of finding on her approach, the fact otherwise, not to attempt an unlawful entrance. To condemn vessels under such circumstances would be manifestly unjust; and to restrain them from a distant voyage to a port once in a state of blockade, until information of a change shall have travelled a like distance, must produce a delay and uncertainty little short of an absolute prohibition of the commerce. To require them even to go out of their course, to seek at other ports, information on the subject, would be an unreasonable imposition. The British government can have little objection to this article, after defining blockades as is agreed with Russia, and as is here proposed; since our distance is of itself a security against any concert with the blockaded, for surreptitious entries, which might be attempted by nearer adventurers; and since in the case of blockades by a force actually present, a preliminary notice may be required without impairing their efficacy, as might be the case with blockades, such as the preceding article guards against.

The only difference between the articles as standing in the different columns, consists in the preamble to that which is to be admitted, if the proposition of the other should not succeed. The article is preferable without the recital of any reason particular to the United States, because as a naked stipulation, it strengthens instead of weakening a general principle friendly to neutral and pacific nations.

*On articles VIII, IX and X.* These are articles which are known to have been long wished and contemplated on the part of Great Britain, and together with the justice, and in many views the expediency to Great-Britain herself of the articles desired on our part, may induce her to accede to the whole. The articles are in substance the same with a project offered to the American administration in the year 1800, by Mr. Liston, who appears to have borrowed it from corresponding stipulations in the convention between the U. States and France in the year The project was at that time dropped, owing perhaps in part to the change in the head of the department of state, between whom and Mr. Liston it had been discussed, and principally, to the difficulty of combining with it, proper stipulations against British impressments on the high seas. Without such an equivalent, the project had little to recommend it to the U. States. Considered by itself, it was too the less admissible, as one of its articles, under some obscurity of expression, was thought to favor the British pretension to impress British seamen from American vessels on the high seas.

A copy of this document is inclosed, as it may be not without use, in shewing the ideas of the British government at that time, so far at least as its minister here was an organ of them.

The terms in which these articles are to be proposed, differ but slightly from those in which they may be admitted. In the former, the delivery of deserters is confined to soldiers and seamen, without requiring a delivery of officers, whose desertion will not be from the service of their country, but on account of offences for which it might sometimes be more agreeable to the United States to be unbound to give them up for trial and punishment. At the same time this consideration ought not to be a bar to an arrangement, which, in its general character, will be so important to the interests of the United States.

*On article XI.* This is a stipulation which is not to be yielded but in the event of its being made an indispensible condition. It cannot be essential for the object of it, whilst the British government is left free to take the precautions allowable within its own jurisdiction for preventing the clandestine departure of its seamen or its soldiers in neutral vessels. And it is very ineligible to the U. States, inasmuch as it will be difficult to enforce the prohibition, whether we regard the embarkation of such persons in British ports, or their landing on the American shores; and inasmuch as the inefficacy of regulations for such purposes, though made with due sincerity and care, may become a source of secret jealousy and dissatisfaction, if not of controversy and reproach.

The article is copied from that in the arrangement (of which you have a copy) discussed and brought near to a conclusion between Mr. King and the British ministry, and you are authorized to accede to it, on the supposition that it may again be insisted on. It is to be recollected however, that the article was then understood to be the only price given for relinquishing the impressment of American seamen. The other offer now substituted will justify you in pressing the omission of the original one.

*On article XII.* The law of nations does not exact of neutral powers the prohibition specified in this article. On the other hand, it does not restrain them from prohibiting a trade which appears on the face of the official papers proceeding from the customhouse to be intended to violate the law of nations, and from which legitimate considerations of prudence may also dissuade a government. All that can be reasonably expected by belligerent from neutral powers, is that their regulations on this subject be impartial, and that their stipulations relative to it, when made in time of war at least, should not preclude an impartiality.

It is not certain what degree of value Great Britain may put on this article, connected, as it essentially is, with the article which limits the list of contraband. It will at least mitigate her objection to such a limitation. With the range given to contraband by her construction of the law of nations, even as acquiesced in by the U. States, a stipulation of this sort would be utterly inadmissible.

The last article, in making this city the place for exchanging the ratifications, consults expedition in putting the treaty into operation, since the British ratification can be forwarded at the same time with the instrument itself. And it is otherwise reasonable, that as the negociation and formation of the treaty will have taken place at the seat of the British government, the concluding formality should be at that of the government of the United States

In addition to these articles which, with the observations thereon, I am charged by the President to communicate to you as his instructions, he leaves you at liberty to insert any others which may do no more than place British armed vessels, with their prizes, on an equality within our ports and jurisdiction with those of France. This would only stipulate what would probably be done by gratuitous regulations here, and as it would no doubt be acceptable to Great Britain, it may not only aid in reconciling her to the principal objects desired by the United States, but may induce her to concur in the further insertion of articles, corresponding with those in the convention of 1800 with France, which regulate more precisely and more effectually, the treatment of vessels of the neutral party on the high seas.

The occasion will be proper also, for calling the attention of the British government to the reasonableness of permitting American consuls to reside in every part of her dominions, where, and so long as she permits our citizens to trade. It is not denied that she has a natural right to refuse such a residence, and that she is free by her treaty with us, to refuse it in other than her European dominions. But the exception authorised with respect to the residence of consuls elsewhere, having reference to the refusal of our trade elsewhere, the refusal of the one ought manifestly to cease with the refusal of the other. When our vessels and citizens are allowed to trade to ports in the West-Indies, there is the same reason for a contemporary admission of consuls to take care of it, as there is for their admission in ports where the trade is permanently allowed. There is the juster expectation of your success on this point, as some official patronage is due to the rights of our citizens in the prize courts established in the West-India islands. Should the British government be unwilling to enter into a stipulated provision, you may, perhaps, obtain an order to the governors for the purpose. Or if consuls be objected to altogether, it is desirable that agents may be admitted, if no where else, at least in the islands where the vice-admiralty courts are established.

It has been intimated that the articles as standing in the different columns, are to be considered, the one as the offer to be made, the other as the ultimatum to be required. This is however, not to be taken too strictly; it being impossible to foresee the turns and the combinations which may present themselves in the course of the negociation. The essential objects for the United States are the suppression of impressments, and the definition of blockades. Next to these in importance, are the reduction of the list of contraband, and the enlargement of our neutral trade with hostile colonies. Whilst you keep in view therefore, those objects, the two last as highly important, and the two first as absolutely indispensible, your discretion, in which the President places great confidence, must guide you in all that relates to the inferior ones.

With sentiments of great respect & esteem, I remain, sir, your most obedient servant.

*(Signed)*

JAMES MADISON.

## CONGRESS.

### HOUSE OF REPRESENTATIVES.

*Debate on the passage of the bill concerning courts martial and courts of enquiry—Continued.*

SATURDAY, MARCH 12.

MR. J. MONTGOMERY observed, that having been chairman of the committee who reported the bill, it might be considered proper for him to assign the reasons which influenced the committee to report the bill, to state its principles, explain its provisions, and to meet objections yesterday urged by gentlemen on the floor against it. Ingenuity has been exercised, said he, talents have been displayed, & the powers of imagination put to the stretch to invent objections to the principle and provisions of the bill—some of such a nature as to affright us, to excite a horror against its adoption. The bill has been denounced as erroneous in principle, defective in detail, inoperative in practice, causing delay in military justice, and as oppressive to the citizen. It has been said that this bill, instead of being entitled a bill concerning courts martial and courts of enquiry, should have been denominated a bill making the civil subservient to the military authority. It has been said, that if you pass this bill one of the greatest misfortunes at this all-important crisis of the nation, one of the most serious calamities will certainly happen: It will cause, it is said with confidence, a dissolution of your army. It has been said too, that pass this law, and one of its prominent features is, that you cause military law to be established in your land; that you subject the citizens of the U. States to military despotism—a state of things the most abhorrent to our feelings—a state of things the most to be deprecated. It has been said too, that this bill is worse than the alien or sedition laws; that if you pass this bill you drag before your courts martial your wife, sister or daughter to be maltreated, and compel them to follow a moveable camp; that this bill was originally designed for a special case, and that there is such a defect of detail in it, that there is not a solitary provision which will meet the case.

Are all those objections real or visionary?

How easy is it for the human mind to raise objections against any system on earth! What system was ever adopted, which would not be equally objectionable as this, going in the same manner upon the supposition of abuses which might occur under that system? When measures are held up for adoption to the national councils, how easy is it to reprobate them! Prior to the elevation of a Jefferson to the chief magistracy of the nation, we heard various objections urged against him; he was denounced as an infidel; it was said that by establishing him in the presidential chair, you would establish infidelity throughout the land; that the government would be perfectly nerveless. He has been elevated, and where is the citizen hardy enough to say that one of those consequences which were predicted, have resulted? On the contrary, all his measures, the selection of his men, all the acts of government have been approved. Shall I call the consideration of the House to the embargo law? How many objections, how many clamors were raised against it? How many evils predicted? That our citizens would be ruined, our country prostrated, and every thing hazarded by its adoption. The measure has been adopted, and what is the result? It meets with popular approbation throughout the Union. In those places where it was at first unpopular, the moment it was understood, and the censures against it met and obviated, the law became popular, and is now considered one of the sheet anchors of the nation. When that measure was first introduced to the House, will any gentleman say that the bill for imposing it was correct in its provisions? Was it not defective, and have not two bills been passed to amend it? Assuredly; and one of the grounds of objection to this bill, and it has been repeated two or three times, is, that the bill is defective. It was not correctly reported at first I admit, and it requires time and deliberate discussion to understand and correct its principles.

How have gentlemen argued upon this bill? They blow hot and cold. Sometimes it is too strong: sometimes powerless. When it was originally reported, it was censured by some of its friends and all its enemies as being too extensive in its operation; inasmuch as that when a man was put on trial for his life, a summons might issue to any person within the U. States. Here then it was too strong. What was done? The bill, to meet the ideas of gentlemen, to ameliorate it, was re-committed, and the committee have reported it thus; as it now stands no summons shall issue to a person at a greater distance than 100 miles; and in all cases beyond that, depositions shall be taken. But, says a gentleman now, will you put a man's life at stake upon a deposition? The bill was too strong when it authorized the calling witnesses; but the moment we have made a provision to meet the ideas of gentlemen, then we endanger life upon exparte depositions.

If the bill contained the mischievous principles and provisions which on this floor have been ascribed to it, I am one of the last in the nation who would give their assent to it. The exceptions taken to it consist entirely in declamation. Strip them of that, meet the bill on its merits, and they vanish.

Of what description is the bill now before the House? It is a remediant bill. The only questions to be asked are, is there a defect in the laws on this subject? If so, is it so important as to require a remedy? This is the real and genuine principle. Apply it to practice: is there a defect in the rules and articles for the regulation of the army? If so, is it of so serious a nature as to require a remedy? Does this bill afford such remedy? If I can shew to the House, and I have no hesitation in saying that I can satisfy any reasonable mind that there is a defect, and of such a serious kind as to call for a remedy, and that this bill affords that remedy, I cannot but expect that the House will adopt the measure now under consideration.

The rules and regulations in all cases of offences established by those rules, whether capital or not, are not defective in the power of compelling witnesses to attend where proof must be confined to the ranks. If those articles contained no offences but such as must necessarily be confined in proof to persons in the army or navy, there would be no necessity for the interference of Congress. Is there one provision in all the articles to meet a case either capital or otherwise, where the witness is not in service? Yes; there is one, in a case not capital, in a case not going to life or dismissal from office, depositions may be taken—how? Before a magistrate. Even in that case there is no benefit of summons. The party accused, let the offence be clothed with whatever infamy, or going even to deprivation of life, has not the power of obtaining process for witnesses. The only opportunity he has is in cases not capital to obtain the testimony of a witness by a deposition taken before a magistrate provided both parties shall be present at the time of taking. Here then is a defect in the existing regulations; with respect to minor crimes, depositions may be taken; but as to capital crimes there is no provision whatever. Will any gentleman here say that a man charged with offences going to infamy shall only have the benefit of depositions taken before a single magistrate, subject to the pleasure of the prosecutor to attend even in that case? That the party accused shall be left to this mere skeleton of a relief to get the benefit of testimony? Was the bill under consideration to go no further than this, I am confident that the good sense of this body would say that Congress ought to pass a bill to meet such cases as that—not only to make more perfect provision for taking depositions, but to give the benefit of process to compel attendance of witnesses. What is the existing regulation? I will read it, as I wish not to state any thing in which I am not borne out by the laws of the land. One of the articles of war says, "In the trial of all cases not capital before courts martial, the depositions of wit-