

**James Madison to Thomas Jefferson, April 2, 1798.
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TO THOMAS JEFFERSON. MAD. MSS.

April 2d, 1798.

Dear Sir, —Since my last, I am in debt for your two favors of the 15th & 22, the Gazettes of the 3, 6 7 & 8 Ulto, with a regular continuation to the 22d—two statements from the Treasury Department, and Paine's letter to the French people & armies. The President's message¹ is only a further development to the public, of the violent passions, & heretical politics, which have been long privately known to govern him. It is to be hoped however that the H. of Reps will not hastily eccho them. At least it may be expected that before war measures are instituted, they will recollect the principle asserted by 62 vs. 37, in the case of the Treaty, and insist on a full communication of the intelligence on which such measures are recommended. The present is a plainer, if it be not a stronger case, and if there has been sufficient defection to destroy the majority which was then so great & so decided, it is the worst symptom that has yet appeared in our Councils. The constitution supposes, what the History of all Govts demonstrates, that the Ex. is the branch of power most interested in war, & most prone to it. It has accordingly with studied care, vested the question of war in the Legisl. But the Doctrines lately advanced strike at the root of all these provisions, and will deposit the peace of the Country in that Department which the Constitution distrusts as most ready without cause to renounce it. For if the opinion of the P. not the facts & proofs themselves

are to sway the judgment of Congress, in declaring war, and if the President in the

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1 Of March 19th.

recess of Congr. create a foreign mission, appt. the minister, & negociate a War Treaty, without the possibility of a check even from the Senate, untill the measures present alternatives overruling the freedom of its judgment; if again a Treaty when made obliges the Legis. to declare war contrary to its judgment, and in pursuance of the same doctrine, a law declaring war, imposes a like moral obligation, to grant the requisite supplies until it be formally repealed with the consent of the P. & Senate, it is evident that the people are cheated out of the best ingredients in their Govt., the safeguards of peace which is the greatest Of their blessings. I like both your suggestions in the present crisis. Congress ought dearly to prohibit arming, & the P. ought to be brought to declare on what ground he undertook to grant an indirect licence to arm. The first instructions were no otherwise legal than as they were in pursuance of the law of Nations, & consequently in execution of the law of the land. The revocation of the instructions is a virtual change of the law, & consequently a usurpation by the Ex. of a legislative power. It will not avail to say that the law of Nations leaves this point undecided, & that every nation is free to decide it for itself. If this be the case, the regulation being a Legislative not an Executive one, belongs to the former, not the latter Authority; and comes expressly within the power, "to define the law of Nations," given to Congress by the Constitution. I do not expect however that the Constitutional party in the H. of R. is strong enoto do what ought to be done in the present instance. Your 2d idea that an adjournment for the purpose of consulting the constituents on the subject of war, is more practicable because it can be effected by that branch alone if it pleases, & because an opposition to such a measure will be more striking to the public eye. The expedient is the more desirable as it will be utterly impossible to call forth the sense of the people generally before the season will be over, especially as the Towns, &c., where there can be most despatch in such an operation are on the wrong side, and it is to be feared that a partial expression of the public voice, may be misconstrued or miscalled, an evidence in favor of the war party. On what do you ground the idea that a decln of war requires # of the Legislature? The force of your remark however is not diminished by this

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mistake, for it remains true, that measures are taking or may be taken by the Ex. that will end in war, contrary to the wish of the Body which alone can declare it.