National Intelligencer.

& WASHINGTON ADVERTISER.

VOL. VIII. WASHINGTON CITY, PRINTED BY SAMUEL HARRISON SMITH, PENNSYLVANIA AVENUE. NO. 1163.

FIVE DOLLARS PER ANNUM, FRIDAY, APRIL 8 1808. PAID IN ADVANCE.

NATIONAL INTELLIGENCER.

LETTERS

From the Secretary of State to Mr. Monroe, on the subject of impressments, &c. Also, extracts from, and enclosures in, the letters of Mr. Monroe to the Secretary of State, prior to the joint mission of him and Mr. Pinkney; part 2, accompanying the message of the President of the U. S. received on the 22d of March, 1808.

Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE, *January* 5, 1804.

Sir,—The information and observations which you have as yet received from me since your arrival in London, on the impressment of our seamen and other violations of our rights, have been in private letters only. The delay in making these injuries the subject of official communications, proceeded, first, from an expectation that the British government would have notified formally to the U. States as a neutral power, the state of war between Great Britain and France, which would have been an apt occasion, for combining with assurances of the fairness with which our neutral obligations would be fulfilled, our just claims on a correspondent respect for our neutral rights, and particularly of those which had been least respected during the last war: secondly, from the expected arrival of Mr. Merry, which, if he should not be charged with such a notification, might be a favorable opportunity for commencing the explanations and discussions which must precede a thorough correction of the wrongs which we experience.

Since the arrival of Mr. Merry, accordingly, no time has been lost in calling his attention to the subject; and in preparing both it and him, for the negociation which is now to be committed to you. If appearances are to be trusted, his impressions and representations will be friendly to it. In my conversations with him, which have been free and full, he has expressed the best dispositions, has listened with candor to the appeals made, as well to the considerations of justice, as of the solid interest of his nation; and although he suggests serious difficulties on certain points, he will, I believe, sincerely co-operate in lessening them, and in bringing about an arrangement which will be acceptable to this country. The only topic on which any thing has passed in writing between the department of state and him, is that of the pretended blockade of St. Domingo. Copies of my letter to him, and of his answer, are herewith inclosed; as also of the letter written to Mr. Thornton, some time before, and referred to in that to Mr. Merry, in relation to a like blockade of Martinique and Guadaloupe.

Although there are many important objects which may be thought to invite conventional regulations between the U. States and Great Britain, it is evidently proper to leave for subsequent consideration, such as are less urgent in their nature, or more difficult in their adjustment; and thereby to render the way plainer and shorter to an agreement with respect to objects which cannot be much longer delayed without danger to the good understanding between the two nations. With this view the plan of a convention contemplated by the President, is limited to the cases of impressments of our seamen, of blockades, of visiting and searching our vessels, of contraband of war, and of the trade with hostile colonies, with a few other cases affecting our maritime rights; embracing however, as inducements to Great Britain to do us justice therein, a provision for the surrender of deserting seamen and soldiers, and for the prevention of contraband supplies to her enemies.

The plan digested for your use is subjoined. The first column contains the articles which are to be proposed in the first instance, and which are considered as within our just expectations: the second modifies the articles into the concessions which the British government may possibly require, and which it may be expedient for us ultimately to admit.

[To save room, instead of arranging the articles in two columns, as done in the project, we have put the contents of the first column in *Italics* succeeding the contents of the second column.]

A CONVENTION BETWEEN THE U. STATES AND G. BRITAIN.

ART. I. No seaman, seafaring or other person, shall, upon the high seas and without the jurisdiction of either party, be demanded or taken out of any ship or vessel belonging to the citizens or subjects of one of the parties, by the public or private armed ships belonging to or in the service of the other party, and strict and effectual orders shall be given for the due observance of this engagement: but it is to be understood that this article shall not exempt any person on board the ships of either of the parties, from being taken therefrom by the other party, in cases where they may be liable to be so taken according to the laws of nations, which liability, however, shall not be construed to extend in any case to seamen or seafaring persons, being actually part of the crew of the vessel in which they may be, nor to persons of any description passing from one port to another port of either of the parties.

ART. I. No person whatever shall, upon the high seas and without the jurisdiction of either party, be demanded or taken out of any ship or vessel belonging to citizens or subjects of one of the parties, by the public or private armed ships belonging to or in the service of the other, unless such person be at the time in the military service of an enemy of such other party.

ART. II. No person being a subject or citizen of one of the parties, and resorting to or residing in the dominions of the other, shall in any case be compelled to serve on board any vessel, whether public or private, belonging to such other party: and all citizens or subjects whatever of the respective parties, at this time compulsively serving on board the vessels of the other, shall be forthwith liberated, and enabled, by an adequate recompence, to return to their own country.

ART. II. The same.

ART. III. If the ships of either of the parties shall be met with sailing either along the coasts or on the high seas, by any ship of war or other public or private armed ships of the other party, such ships of war or other armed vessels shall, for avoiding all disorder in visiting and examining the same, remain out of cannon shot, unless the state of the sea or the place of meeting render a nearer approach necessary; and shall in no case compel or require such vessel to send her boat, her papers or any person from on board to the belligerent vessel; but the belligerent vessel may send her own boat to the other, and may enter her to the number of two or three men only, who may, in an orderly manner, make the necessary inquiries concerning the vessel and her cargo; and it is agreed that effectual provision shall be made for punishing violations of any part of this article.

ART. III. The same.

ART. IV. Contraband of war shall consist of the following articles only: salt petre, sulphur, cuirasses, pikes, swords, sword belts, knapsacks, saddles and bridles, cannons, mortars, fire arms, pistols, bombs, grenades, bullets, fire-locks, flints, matches and gun powder; excepting, however, the quantity of the said articles which may be necessary for the defence or use of the ship and those who compose the crew; and no other articles whatever, not here enumerated, shall be reputed contraband or liable to confiscation, but shall pass freely without being subjected to the smallest difficulty, unless they be enemy's property; and it is to be particularly understood, that under the denomination of enemy's property, is not to be comprized the merchandize of the growth, produce or manufactures of the countries or dominions at war, which shall have been acquired by the citizens or subjects of the neutral power, and shall be transported for their account; which merchandize cannot, in any case, or on any pretext, be excepted from the freedom of the neutral flag.

ART. IV. The same.

ART. V. In all cases where the prize courts of either party shall pronounce judgment against any vessel or property claimed by citizens or subjects of the other, the sentence or decree shall mention the reasons or motives on which the same shall have been founded; and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of the said vessel without any delay, he paying the legal fees for the same.

ART. V. The same.

ART. VI. In order to determine what characterises a blockaded port, that denomination is given only to a port where there is by the disposition of the power which attacks it with ships stationary or sufficiently near, an evident danger in entering.

ART. VI. The same.

ART. VII. [In consideration of the distance of the ports likely to be blockaded by either party, from the ports of the other party, and of other circumstances incident to their relative situations] it is agreed that no vessel sailing from the ports of either, shall, although cleared or bound to a blockaded port, be considered as violating in any manner the blockade, unless on her approach towards such port she shall have been previously warned against entering the same.

ART. VII. Omit the preamble.

ART. VIII. It is agreed that no refuge or protection shall be afforded by either party to the "captains, officers," mariners, sailors or other persons not found to be its own citizens or subjects, who shall desert from a vessel of the other party, of the crew whereof the deserter made a part; but on the contrary, all such deserters shall be delivered up on demand, to the commanders of the vessels from which they shall have deserted, or to the commanding officers of the ships of war of the respective nations, or to such other persons as may be duly authorised to make requisition in that behalf; provided, that proof be made, within two years from the time of desertion, by an exhibition of the ship's papers, or authenticated copies thereof; and by satisfactory evidence of the identity of the person, that the deserters so demanded were actually part of the crew of the vessels in question.

And for the more effectual execution of this article, adequate provision shall be made for causing to be arrested, on the application of the respective consuls or vice consuls to the competent authorities, all deserters as aforesaid, duly proved to be such, in order that they may be sent back to the commanders of the vessels to which they belonged, or removed out of the country, and all due aid and assistance shall be given in searching for, as well as in seizing and arresting the said deserters; who shall even be detained and kept in the prisons of the country at the request and expence of the said consuls or vice consuls, until they shall have found an opportunity of sending them back or removing them as aforesaid. But if they be not so sent back or removed within three months from the day of their arrest, they shall be set at liberty, and shall not again be arrested for the same cause.

ART. VIII. Omit "captains, officers."

ART. IX. It is further agreed that no refuge or protection shall be afforded, by either of the parties, to any "officers or" soldiers, not found to be its own citizens or subjects, who shall desert from the military service of the other; but that, on the contrary, effectual measures shall be taken, in like manner and under like regulations and conditions, as with respect to sailors, for apprehending any such deserting soldiers, and delivering them to the commanding officers of the military posts, forts or garrisons from which they shall have deserted, or to the consuls or vice consuls on either side, or to such person as may be duly authorised to demand their restitution.

ART. IX. Omit "officers, or."

ART. X. It is however understood, that no stipulation herein made, shall be construed to empower the civil or military officers of either of the parties, to enter forcibly into any of the forts, garrisons, posts or other places, or to use violence of any sort within the jurisdiction of the other party, or be construed, in any manner, to contravene or derogate from the stipulation contained in the first of the above articles against demanding or taking any persons out of vessels on the high seas, and without the jurisdiction of either of the parties.

ART. X. Omitted.

ART. XI. Each party will prohibit its citizens or subjects, from clandestinely carrying away from the territories or dominions of the other, any seamen or soldiers belonging to such other party.

ART. XI. The same.

ART. XII. Neither party shall permit any of the articles above enumerated, as contraband of war, to be cleared out from its ports to any place within the jurisdiction of an enemy of the other party; and, in order to enforce this regulation, due proof and security shall be given, that all such articles of contraband as may be exported from the ports of either of the parties, have been actually destined elsewhere, than within the jurisdiction of any enemy of the other party.

ART. XII. The same.

ART. XIII. This convention shall be in force for the term of eight years from the date of the exchange of ratifications. It shall be ratified on both sides within months from the day of its signature, or sooner if possible; and the ratifications exchanged without delay, in the U. States, at the city of Washington.

ART. XIII. The same.

Observations on the preceding plan.

THE first article relates to impressments from American vessels on the high seas. The commanders of British armed vessels have, as is well known, been long in this practice. They have indeed not only continued it, under the sanction of their superiors, on the high seas; but have, with impunity, extended it to our own coasts, to neutral ports and to neutral territory; and, in some instances, to our own harbors. The article does not comprehend these latter cases; because it would not be very honorable in Great Britain to stipulate against the practice of such enormities, nor in the United States to recur to stipulations as a security against it; and because it may be presumed that such particular enormities will not be repeated or unpunished, after a general stop shall have been put to impressments.

The article, in its first form, renounces the claim to take from the vessels of the neutral party, on the high seas, any person whatever, not in the military service of an enemy; an exception which we admit to come within the law of nations, on the subject of contraband of war.

With this exception, we consider a neutral flag on the high seas, as a safe guard to those sailing under it. Great Britain, on the contrary, asserts a right to search for, and seize her own subjects; and under that cover, as cannot but happen, are often seized and taken off, citizens of the United States and citizens or subjects of other neutral countries navigating the high seas, under the protection of the American flag.

Were the right of Great Britain in this case not denied, the abuses flowing from it would justify the United States in claiming and expecting a discontinuance of its exercise. But the right is denied, and on the best grounds.

Although Great Britain has not yet adopted, in the same latitude with most other nations, the immunities of a neutral flag, she will not deny the general freedom of the high seas, and of neutral vessels navigating them, with such exceptions only, as are annexed to it, by the law of nations. She must produce then such an exception in the law of nations, in favor of the right she contends for. But in what written and received authority will she find it? In what usage, except her own, will it be found? She will find in both, that a neutral vessel does not protect certain objects denominated contraband of war, including enemies serving in the war, nor articles going into a blockaded port; nor, as she has maintained, and as we have not contested, enemy's property of any kind. But no where will she find an exception to this freedom of the seas, and of neutral flags which justifies the taking away of any person, not an enemy in military service, found on board a neutral vessel.

If treaties, British as well as others, are to be consulted on this subject, it will equally appear that no countenance to the practice can be found in them. Whilst they admit a contraband of war, by enumerating its articles, and the effect of a real blockade by defining it, in no instance do they affirm or imply a right in any sovereign, to enforce his claims to the allegiance of his subjects, on board neutral vessels, on the high seas. On the contrary, whenever a belligerent claim against persons on board a neutral vessel, is referred to in treaties, enemies in military service alone are excepted from the general immunity of persons in that situation; and this exception confirms the immunity of those who are not included in it.

It is not then from the law, or the usage of nations, nor from the tenor of treaties, that any sanction can be derived for the practice in question. And surely it will not be pretended that the sovereignty of any nation extends, in any case whatever, beyond its own dominions, and its own vessels on the high seas. Such a doctrine would give just alarm to all nations, and more than any thing would countenance the imputation of aspiring to an universal empire of the seas. It would be the less admissible too, as it would be applicable to times of peace as well as to times of war, and to property as well as to persons. If the law of allegiance, which is a municipal law, be in force at all on the high seas, on board foreign vessels, it must be so at all times there, as it is within its acknowledged sphere. If the reason alleged for it be good in time of war, namely, that the sovereign has then a right to the service of all his subjects, it must be good at all times, because at all times he has the same right to their service. War is not the only occassion for which he may want their services; nor is external danger the only danger against which their services may be required for his security. Again, if the authority of a municipal law can operate on persons in foreign vessels on the high seas, because within the dominion of their sovereign they would be subject to that law, and are violating that law by being in that situation; how reject the inference that the authority of a municipal law may equally be enforced on board foreign vessels on the high seas, against articles of property exported in violation of such a law, or belonging to the country from which it was exported? And thus every commercial regulation, in time of peace too, as well as of war, would be made obligatory on foreigners and their vessels, not only whilst within the dominion of the sovereign making the regulation, but in every sea, and at every distance where an armed vessel might meet with them. Another inference deserves attention. If the subjects of one sovereign may be taken by force from the vessels of another, on the high seas, the right of taking them, when found, implies the right of searching, for them, a vexation of commerce, especially in time of peace, which has not yet been attempted, and which, for that as well as other reasons, may be regarded as contradicting the principle from which it would flow.

Taking reason and justice for the tests of this practice, it is peculiarly indefensible; because it deprives the dearest rights of persons, of a regular trial, to which the most inconsiderable article of property captured on the high seas, is entitled; and leaves their destiny to the will of an officer, sometimes cruel, often ignorant, and generally interested by his want of mariners, in his own decision. Whenever property found in a neutral vessel is supposed to be liable on any grounds to capture and condemnation, the rule in all cases is, that the question shall not be decided by the captor, but be carried before a legal tribunal, where a regular trial may be had, and where the captor himself is liable to damages for an abuse of his power. Can it be reasonable then or just, that a belligerent commander who is thus restricted and thus responsible in a case of mere property of trivial amount, should be permitted, without recurring to any tribunal whatever, to examine the crew of a neutral vessel, to decide the important question of their respective allegiances, and to carry that decision into instant execution by forcing every individual he may choose, into a service abhorrent to his feelings; cutting him off from his most tender connections, exposing his mind and his person to the most humiliating discipline, and his life itself to the greatest dangers? Reason, justice and humanity unite in protesting against so extravagant a proceeding. And what is the pretext for it? It is that the similarity of language and of features, between American citizens and British subjects, are such as not easily to be distinguished; and that without this arbitrary and summary authority to make the distinction, British subjects would escape under the name of American citizens, from the duty which they owe to their sovereign. Is then the difficulty of distinguishing a mariner of one country from the mariner of the other and the importance of his services, a good plea for referring the question whether he belongs to one or to the other, to an arbitrary decision on the spot, by an interested and irresponsible officer? In all other cases, the difficulty and the importance of questions are considered as reasons for requiring greater care and formality in investigating them, and greater security for a right decision on them. To say that precautions of this sort are incompatible with the object, is to admit that the object is unjustifiable, since the only means by which it can be pursued are such as cannot be justified.

The evil takes a deeper die when viewed in its practice as well as its principles. Were it allowable that British subjects should be taken out