

During the same tempestuous period, tempestuous because such men as Mr. Jefferson and Mr. Madison had, "a language official and language confidential," because such kind of men openly or covertly joined the banners of a foreign minister against our own government. Antoine Charbonet Duplaine, Consul of France at Boston, entered with a military force a vessel within our waters, and with like force retained the possession of her against Samuel Bradford, Esq. then acting under the authority of the United States.

For this illegal act the exequatur of this *Inferior* Officer, Mr. Duplaine was revoked—Genet denied the President's power to revoke it, and addressed a letter to our *Executive* through the news paper which was then published under Mr. Jefferson's patronage, declaring that he had examined the Constitution of the United States, and that he was satisfied that the President was vested with *no such authority*—One cannot credit the evidence of the records of these times, that a foreign minister should have had the impudence to question the powers of our *own* Chief Magistrate under our *own* Constitution—But this extraordinary fact can not only be proved, but a number of *able writers*, some of whom I dare say Mr. Madison well knows, appeared in support of the French Minister, and either suggesting the idea to him, or borrowing it from him, contended *throughout all the democratic presses* that the President had no power to dismiss even a consul, much less a *publick minister*—We would here just enquire of Mr. Civilian Smith, whether any amendment has been made in this *part of our Constitution*?

NOTE IV.

WE suggested in the foregoing strictures that Mr. Erskine was induced by our administration to withdraw his *preliminary conditions* under the *erroneous impression* made upon his mind by our minister, that it was not in Mr. Madison's power by the constitution to make any agreement which should bind Congress.

This construction was not only foolish but contrary to *past interpretation*—If it were true, it would follow that the treaty making power is vested in *both houses* instead of the president and senate—Foreign nations never could safely treat with us—this might suit a shuffling administration, but the honor and interests of the nation would be sacrificed—Every one knows that in the case of Jay's treaty the contrary doctrine was settled, and Mr. Jefferson was guilty of perjury in this offer which he declares he made to Great Britain in the summer of 1803, "that if Great Britain would repeal her orders in council and France should refuse to repeat hers, we would continue to resist France" if he supposed he had *no right* to bind Congress—In short can any honest man doubt that the President and senate have a right to make and ratify a treaty by which a stipulation should be made which would require the concurrence of both branches to carry it into execution?—

We are now authorized from a source, the correctness of which the administration will not dispute, to state, "that Mr. Erskine was persuaded not to insist on the *preliminary conditions* from what we consider a mistaken view of Mr. Madison's authority—but that he was led to believe that the only objection on this head was to the delivery of a FORMAL note agreeing to those preliminaries—that his agreement was however *provisional* and was founded on an *expectation*, and *understanding* of what the course of measures Congress would pursue, would be."

"That although he thought that it would be impossible for Mr. Madison to stipulate as a preliminary condition, that the United States would place themselves in actual hostility with such powers as might execute decrees in violation of neutral rights, yet Mr. Erskine has declared in writing that he had the most POSITIVE REASONS for believing that such consequences would follow."

It is added by Mr. Erskine, "that his government had an undoubted right to *disavow* his agreement, and had done every thing which became an honourable Nation to prevent any evil consequences to the Citizens of this country."

How far *these hopes and expectations* have been realized, the expectation which Mr. Erskine before stated to Mr. Canning that we would take side with Great Britain—that we would proceed to hostility against France, let the records of the June session of Congress decide—At that session it was *not known* that Mr. Erskine's arrangement had been disavowed, and we have there a good sample of Mr. Madison's notions of good faith.