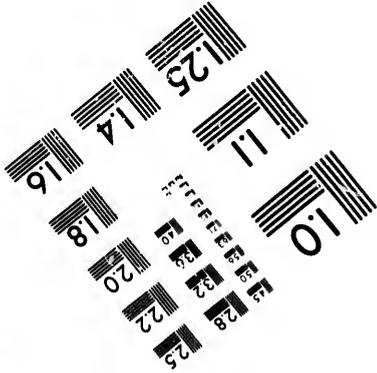
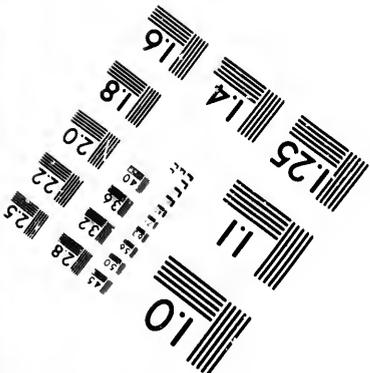
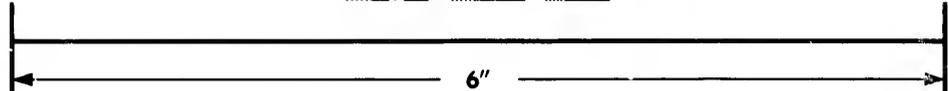
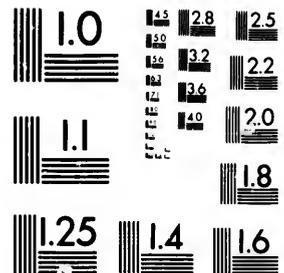


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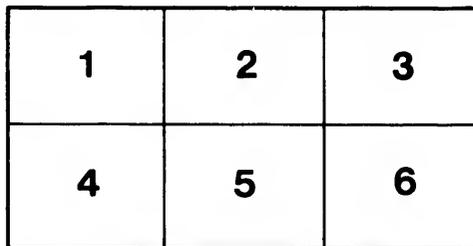
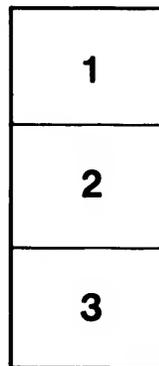
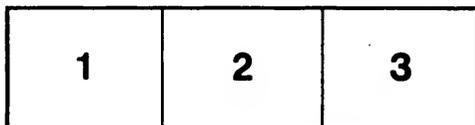
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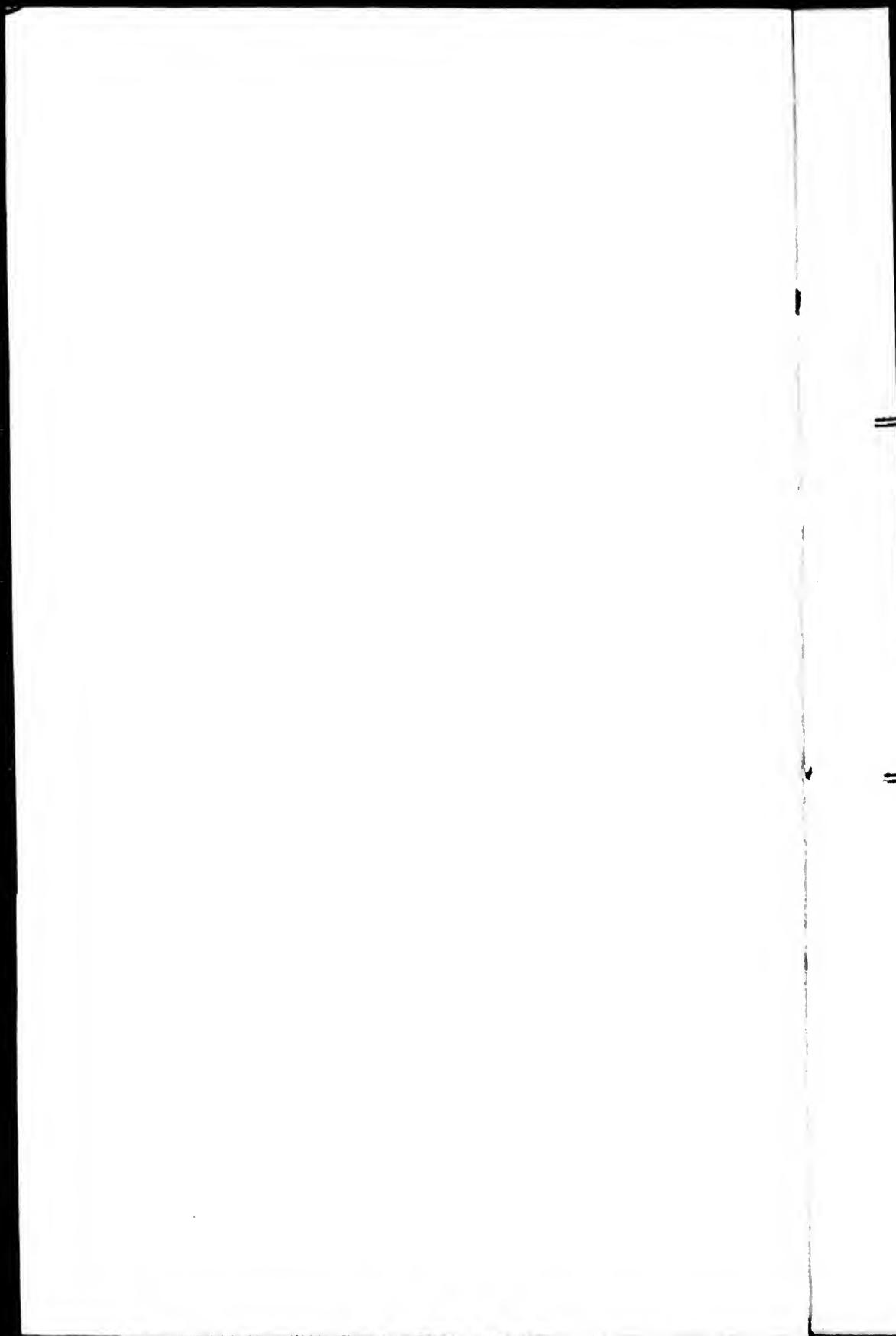
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J. Thompson,

New York 25th Sept 1867

THE

BRITISH TREATY,

TR

TO
THOSE MEMBERS OF CONGRESS
WHO HAVE
THE SENSE TO PERCEIVE
AND THE
SPIRIT TO PURSUE
THE
TRUE INTERESTS OF THEIR COUNTRY,
THIS PAMPHLET IS DEDICATED.

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P R E F A C E.

THE matter of the following sheets was long since prepared, but the publication was suspended from unwillingness to interfere in the measures of government; and from the apprehension that such interference, instead of doing good, might produce evil. A majority of our countrymen seems determined to approve whatever our rulers do; and even to give praise for what they leave undone. We believed, therefore, that, borne on a tide of popularity, they would disdain what we could say; and might pursue their course still more pertinaciously should we declare our opinion that it leads to ruin.

This, though an evil, was not the greatest which we apprehended. We have long seen the American people acting and thinking under an impression that the wisest and most virtuous among us have an interest distinct from their fellow citizens; that they wish to tyrannize and oppress; that they want to be lords and kings. And although it is acknowledged that nothing could be more absurd than a scheme to establish monarchy or aristocracy, it has been taken for granted, that men noted for their judgment are engaged in that ridiculous

project. If this produced no other effect than to exclude them from the national councils, we should consider it as a misfortune. We should, however, console ourselves with the hope, that a quiet course of things would render the employment of their talents unnecessary; or that, if storms should cloud the political horizon, they would, as virtuous citizens, be ready at the call of their country. But we have seen a more serious consequence result from the false direction of public sentiment. The measures which such men recommend are considered as part of the system attributed to them. And when they exercise the common right and perform the common duty of freemen, to express their opinion of any measure of government which appears to them unwise or improper, it is attributed to a desire of making mischief between the people and their friends. Indeed, a singular advantage has been taken even of their talents, to render their exertions ineffectual. Such, it is said, is their power to persuade, that those who listen are lost; wherefore the people must turn a deaf ear to their arguments. And such, it is said, is their power to misrepresent, that the President and his friends dare not indulge themselves in explaining the principles of his conduct. But since the people know he is their sincere friend, the ablest and best man in America, they cannot act more prudently than to repose confidence in him; and adopt the maxims which emanate from his mind. Hence it has happened that, generally speaking, whatever those who administer the government have thought proper to say or do, has been received

and adopted as perfectly wise; from which, at length, has resulted the very great evil, that where their opinion or conduct has been traced up to maxims dangerous and false, error has been adopted as an article of faith. Seeing all this, we could not but apprehend that it might be dangerous to publish the matter contained in the following pages. We feared that, from blind confidence on one side, and blind enmity on the other, false notions might prevail and be established respecting our exterior relations, of which foreigners would not fail to take advantage. But it is no easy matter to get loose from treaties with a great power. And although it is a misfortune to be bound by treaties unequal and injurious, that is not the only misfortune. The jealousy of rival powers is excited, and they take every convenient occasion to make us feel their resentment.

A late event has roused public indignation; and Americans, waking from their long dream, appear desirous of knowing their condition. We see with honest pride the spirit of our country. Neither submission to insult with the view to save money, nor the disgraceful expedient of purchasing delusive tranquillity, have yet unnerved the public mind.

It may be expected that we should say a few words on this event. We put aside what preceded the assault on the Chesapeake, because, even if our government had been in the wrong (a subject on which as yet we form no opinion), the attempt to search a public ship of war appears to us unjustifiable; and more especially so on our own coast. We firmly believe the British will not attempt a justifica-

tion; but will, for their own sakes, grant satisfaction. We do not mean to say that they can be bullied into submission. They are a high-spirited nation, and will not be bullied. If any thing prevents them from giving satisfaction, it will be a demand in terms so injurious as to put us in the wrong. Then, indeed, we may be answered in a tone to repel the insult of threatening language; which, as it is addressed to fear and not to justice, implies the opinion that we have to deal with scoundrels and cowards. When, therefore, we express an opinion that the British government will, for its own sake, give satisfaction, it is from the condition expressed by Admiral Berkeley, and which would at any rate have been implied, that they are willing in their turn to submit their ships of war to search. This we believe they never will submit to, and therefore presume Admiral Berkeley will loose his commission for making the offer.

We may be mistaken in our view of the course of events. Things may be brought to the alternative of submitting to insult or going to war. In that case, not pretending to conceal the misfortunes which must attend hostility, we think every thing is to be done and suffered to vindicate the national honour. These are the constant sentiments of our hearts, unmoved by irritations of the moment. These also are the deliberate conclusions of our judgment. If any gentlemen suppose the war will be feeble and harmless, they are deceived. It must be severe and bloody. But it must be sustained manfully. And we have so good an opinion of England, that we think she will not

like us the worse for fighting her on the point of honour. In the mean time it becomes us to sustain the dignity of our character by the language and deportment of self-respect. Let it be remembered that foul and abusive terms come with propriety from the mouths of none but prostitutes and cowards.

In the following sheets we have endeavoured to avoid reproach and crimination. In some instances indignation has burst forth. We might, it is confessed, now soften the terms. But really there are occasions on which wholly to restrain the warmth of expression implies a defect of honest sentiment. And there are subjects also, to treat which in the cool style of narration, is to betray the cause of virtue.

Aware that it may be said we are personally hostile to the administration, we think it proper to put the question at rest, by declaring candidly our opinion. We consider, then, Mr. Gallatin as an efficient man of real talents. We did not approve, neither do we now approve of his appointment; but we forbear to assign the reasons, because, as far as it has come to our knowledge, his conduct is not reprehensible. We believe, moreover, that he is not swayed by pecuniary motives. We are convinced that he touched nothing in the Louisiana concern, and have no reason to suppose he will pocket any part of the sum to be expended in purchasing the Floridas.—We consider Mr. Maddison as a man of considerable genius, though somewhat slow, and of great industry. We approved of his appointment. We knew indeed that he was a

man of feeble mind; and had seen with concern that he gave himself up to Mr. Jefferson, without reserving the use of his own judgment. When we first knew him, he was a youth of ingenuous temper, whose ignorance of the world exposed him to become the prey of any sharper (of either sex) by whom he might be assailed. From a defect of firmness in the texture of his mind, and perhaps also from a defect of education, he was not in the habit of recurring always to fixed principles for a decision on conduct and opinions. So long, however, as he hung on the arm of Washington, his course was steady, and gained him honour. But the instant he let go that hold, he fell into a rickety condition, from which he never recovered; and is now in a deep decline of character, for which we fear there is no remedy. The first violent symptom was a panegyric on the French constitution: the more extraordinary, as that instrument, in all its prominent features, was opposite to the constitution he had assisted in making, and laboured earnestly and successfully in persuading us to adopt. It would be painful to mark the steps by which this gentleman has descended to his present condition; the mere instrument of Mr. Jefferson. We believe him still honest and well disposed. We think he would make an excellent first clerk in the Secretary of State's office, and sincerely regret the want of qualities and talents for the place he occupies.—Mr. Jefferson is a man of pleasing, modest, unassuming manners. His conversation, generally amusing, is frequently instructive. Though not deep in any one science, he has

that acquaintance with them all which becomes a scholar and adorns a gentleman. He has a considerable share of genius; and there is, in his deportment, an air of frankness and of deference to others, which are agreeable to all, and are sure of captivating the young and inexperienced. If there be blemishes in his private character, we have nothing to do with them. We consider him as a public man, and in this view he has great defects. Like others who have fallen into the idle habit of questioning established truth, his faculty of weighing evidence is impaired. Hence such an astonishing degree of credulity, that he could not only believe the French were free while suffering oppression the most cruel and bloody that ever poor wretches groaned under, but (finding it printed in a French book) he believed, and gravely told the Congress, there is a great mountain of salt in Louisiana. Mr. Jefferson has also the misfortune to be a schemer, perpetually occupied with some strange out-of-the-way project. If this were confined to speculation, it would be a harmless foible; but he tries to carry his projects into effect. Sometimes he prevails on the Congress to adopt them, and then poor sailors are sent a-ducking over the ocean in gun boats. At other times he is less successful, as when he proposed to stow away ships of the line upon shelves. He labours also under such defect of mental vision, that he seldom sees objects in their natural state and true position: just as when we look through a fog, many things near us are not perceived, and those we see appear larger and nearer than they really are.

We have said Mr. Jefferson is not deep in any science. He is more deficient in that of politics than in any other; and indeed it is impossible he should ever become a statesman; because a clear, distinct, and comprehensive view of objects, with a ready conception of their bearings on each other, is a needful prerequisite. A second prerequisite is so to weigh evidence, presumption and probability, as properly to give or withhold our faith: in short, to believe what we ought, and no more. A third is never to indulge notions which have not experience to recommend them: for though it be possible that after the many years which history numbers, and the many thousand events it records, something new in the science of ethics may be discovered, it is not likely; and if it were, the maxim of physicians should be adopted, to make experiments on bodies of little value, and not on the body politic. If any gentleman assume as a principle that mankind can be governed by reason; and insist, notwithstanding the evidence of all history, ancient and modern, sacred and profane, that we may prudently rely on reason for the defence of nations, we would advise him to commence a course of experiments with his own family, and see how far reason will go there. If successful, let him proceed to those with whom he transacts business. Let him reason them into the support of his pecuniary or political views; without any regard to their own interest. If again successful, let him go or send to such a man as Bonaparte, and tell him 'tis unreasonable that boys should be taken from their parents to fight and perish in the

plains of Poland. That, instead of employing large armies, it would be cheaper and better to pick out a few able negotiators, if any can be found among his own subjects; but if not, to borrow Messrs. Armstrong and Munro, and send them to persuade the Emperor of Russia and King of Prussia to surrender their dominions. That a proposition so reasonable in itself, and supported by so much eloquence, could not be rejected. If Napoleon, being persuaded himself, should in this quiet, friendly way persuade his brother Alexander, the specific would indeed have the sanction of fair experiment, and might safely be adopted. It would surely be a great improvement. Happy condition! without fleets or armies, judges or constables, laws or executioners, to sit secure and happy under the broad shade of reason! But if it should prove, on trial, that neither in a family, a city, a national assembly, or with a leader of nations, the force of reason can be relied on; if it should again, for the ten thousandth time, be demonstrated, that what has been true since the world began, remains true at the present hour, and the gentleman still insist on his project, he could not be much respected as a politician. But though Mr. Jefferson is not, and, from the reasons just mentioned, can never become a statesman, he is a man of great address. Having a quick sense of danger, he has studied the means by which it may be avoided. Knowing the instability of popular opinion, he knew that to rely on it was unsafe. He determined, therefore, to avoid responsibility. This is the cardinal point by which the course of his administration has been directed,

with undeviating attention. Consistently with this plan, he associated the house of representatives in the exercise of his functions. The leaders, to whom he applied, were charmed with the mark of confidence, and beyond all measure delighted with that republican spirit which, instead of seeking unlawful power, so freely and frankly discharged itself of the lawful power with which it had been invested. When, over and above that excessive condescension, the patronage of office was laid at their feet; when they were invited to select the proper subjects for appointment; and when they were told that they, the immediate representatives, were the organs through which he wished to learn that will of the people which it was his pleasure and pride to obey, how could they suspect the motive to be selfish? It was natural to believe the fountain pure when its waters were so refreshing. In this way, however, the house of representatives was brought to initiate executive business, and, taking responsibility from his shoulders, to invest him with unlimited power. Like a sly animal in the fable who likes roast chesnuts, but will not put his paws in the fire, he crept behind the curtain, and persuaded a friendly cat to undertake that part of the business; content, provided he gets the nuts, to leave with others all the honour of raking them out of the embers. By this course of conduct, Mr. Jefferson has not only injured the constitution, and established a system of corruption; but (extending the web of intrigue to influence elections over the whole country) he has composed a congress of such materials, that respect for

the national government is much diminished. He has placed himself also in a state of dependance, whereby he is driven to do unrighteous things, and which disables him from becoming useful, should any course of events restore him to the love of honest fame.

Of the other members of our administration nothing need be said; neither shall we take notice of those who are occasionally charged with communicating the President's wishes to the Legislature: a sort of ministers whom Mr. Randolph has described in terms of no little acrimony. Having mentioned this gentleman's name, we will add, that he appears to possess, in an eminent degree, some distinguishing traits of the Virginia character: A lively genius, a bold spirit, a high and haughty mind, with the habit of thinking for himself, and commanding others. Unfortunately for him, he took up false notions at an early period, and committed himself to such an extent, that he finds it difficult to eradicate the impressions from his mind, or free himself from the perplexities with which they entangle his conduct. The executive government, having studied his character, were glad to employ him. He was their sword and shield. But there were some views and plans which it was deemed unsafe to confide to a person of his temper. His indignation at the discovery was exprest in terms not easily mistaken. But though he flounces, he cannot break loose. He is not deficient in personal courage; but he dare not leave his party. Indeed, he is haunted by the panic fear, that the high and honourable sentiments

he has expressed will lead the world to believe him a federalist. This apprehension, though whimsical, is not singular. It has, though with far less reason, laid hold on a kind of up and down man who writes letters to his constituents in Vermont.

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THE

BRITISH TREATY.

THE gentlemen now in power used formerly to insist that republics should have no secrets. Times have changed, and they have changed with the times. We have secrets in abundance. Indeed, we have little else. The state of our affairs with foreign nations, and the conduct pursued towards them, are concealed with sedulous attention. But notwithstanding the care of our rulers, a corner of their curtain is sometimes lifted up. We have learnt a few state-secrets; and may, perhaps, in due time, bring them to light. For the present, however, curiosity must rest satisfied with the British treaty; suspended, as every one has heard, on doubts and apprehensions in the President's mind. We make this communication, because, among other reasons, stories have gone abroad which are not true. We are far from desiring that our rulers should, on all occasions, tell all they know. But we think they should on no occasion give currency to falsehood. The treaty is said to have been sent back because a note delivered by the British negotiators required us to make common cause against France. No such note was delivered. It has been reported also, that our non-importation law drove the minister of his Britannic Majesty into the required concessions. This also is among the things

which are not. Without stopping to notice other aberrations from truth, we proceed to give the purport of that treaty, with a few observations.

The first article, like the first of that concluded on the 19th November, 1794, by Mr. Jay, is merely formal; and the second confirms the first ten articles of the old treaty. It is, therefore, proper to give a glance at them.

The first, as is already mentioned, is merely formal; and the second is executed.

The third gives to each party the right of passing through the territories of the other, in America, except within the limits of the Hudson's Bay Company. We find in it the following clause. "But it
 " is understood, that this article does not extend to
 " the admission of vessels of the United States into
 " the sea-ports, harbours, bays or creeks of his
 " Majesty's said territories, nor into such parts of
 " the rivers in his Majesty's said territories as are be-
 " tween the mouth thereof and the highest port of
 " entry from the sea, except in small vessels trading
 " bona fide between Montreal and Quebec, under
 " such regulations as shall be established to prevent
 " the possibility of any frauds in this respect: Nor to
 " the admission of British vessels from the sea into
 " the rivers of the United States beyond the highest
 " ports of entry for foreign vessels from the sea. The
 " river Mississippi shall, however, according to the
 " treaty of peace, be entirely open to both parties:
 " and it is further agreed, that all the ports and places
 " on its eastern side, to whichsoever of the parties
 " belonging, may freely be resorted to and used by
 " both parties, in as ample a manner as any of the

“Atlantic ports or places of the United States, or
 “any of the ports or places of his Majesty in
 “Great-Britain.”

The fourth article, after mentioning that “it is
 “uncertain whether the Mississippi extends so far to
 “the northward as to be intersected by a line to be
 “drawn due west from the Lake of the Woods, in
 “the manner mentioned in the treaty of peace,”
 provides “for a joint survey of the northern part of
 “that river;” and agrees, that, “if the result of
 “such survey it should appear that the said river
 “would not be intersected by such a line,” the
 parties will regulate the boundary in that quarter
 by amicable negotiation.

The fifth article, after mentioning that “doubts
 “had arisen what river was truly intended under
 “the name of the River St. Croix,” provides for
 ascertaining that river, and the latitude and longi-
 tude of its mouth and source.

The sixth, seventh and eighth articles have been
 executed.

The ninth provides for persons holding lands in
 the dominions of one of the parties who are sub-
 jects or citizens of the other; and the tenth is a
 stipulation in favour of moral honesty, viz. that
 neither party shall sequester or confiscate debts or
 property in the funds, &c.

The third article of the new treaty provides for
 and regulates commerce between the United States
 and the British East-Indies, in the same terms as
 the thirteenth article of the old treaty, except that
 the words, *and sailing direct from the ports of the
 said States* are inserted in the first clause, which

now runs thus: "His Majesty consents that the
 "vessels belonging to the citizens of the United
 "States of America, and sailing direct from ports
 "of the said States, shall be admitted and hospitably
 "received in all the sea-ports and harbours of the
 "British territories in the East-Indies," &c.

The fourth article of the new treaty is the same as the fourteenth of the old one, and stipulates for a general liberty of trade between the United States and the British dominions in Europe.

The fifth article of the new treaty is the same as the fifteenth of the old one (regulating the duties on ships and merchandize), with two exceptions: The first reserves to the United States the right previously reserved to Great-Britain, of imposing a tonnage duty equal to what shall be imposed by the other party. The second is made by substituting a new clause for the reservation formerly made by Great-Britain, of "the right of imposing on
 "American vessels entering into the British ports
 "in Europe, such duty as may be adequate to
 "countervail the difference of duty now payable
 "on the importation of European and Asiatic
 "goods when imported into the United States in
 "British or in American vessels." Instead of this, the following words make part of the new article.
 "And in the trade of the two nations with each
 "other, the same duties on exportation or impor-
 "tation of goods or merchandize shall be imposed,
 "and the same drawbacks and bounties allowed
 "in either country, whether the exportation or im-
 "portation shall be in British or American vessels."

The sixth article of the new treaty states that

the parties cannot agree about our trade to the British West-Indies; but that "while they will attempt an amicable agreement, both may exercise their existing rights."

The seventh of this, like the sixteenth of the other treaty, provides for the appointment of consuls, &c.

The eighth of this, like the seventeenth of the other, provides for speedy decision on the capture and detention of vessels suspected of carrying enemy's goods or contraband of war. There is added a promise on the part of Great-Britain, that hereafter indemnification shall be granted for unjust seizure, for detention and vexation.

The ninth article is the same as the eighteenth of the old treaty (respecting contraband), only that tar and pitch are excepted from the catalogue, unless when going to a place of naval equipment.

The tenth article is the same as the eighteenth of the old (respecting blockade), with the addition, that passengers not in the military service of an enemy shall not be taken and made prisoners.

By the eleventh article, citizens of the United States may carry European goods to the colonies of enemies of Great-Britain (from the ports of the United States), provided that both vessel and cargo be bona fide American property, that the goods shall have been unladen within the United States, and that (in addition to that part of the duty already reserved from the drawback on exportation) the further sum of one per cent. ad valorem on such goods shall be paid. They may also export from the United States to Europe, the produce

of colonies of the enemies of Great-Britain, provided they, being neutral property, shall have been unladen as before, and that two per cent. ad valorem be paid on exportation in addition to what is reserved on the drawback. After the expiration of the treaty, all antecedent rights on these subjects are to revive.

The twelfth article extends to ships of Great-Britain, and of all nations who shall adopt the same regulation, the protection of our neutrality from a marine league to five miles from our shore.

The thirteenth article is substantially the same as the nineteenth of the old treaty, regulating privateers.

The fourteenth is the same as the twentieth of the old treaty, respecting pirates.

The fifteenth article of this treaty, like the twenty-first of the other, prohibits the subjects or citizens of one party to accept commissions from enemies of the other, and to commit acts of hostility.

The sixteenth, like the twenty-second of the other, forbids reprisals before a demand of satisfaction.

The seventeenth is the same as the twenty-third of the old treaty, which, after stipulating that "the ships of war of each of the contracting parties shall at all times be hospitably received in the ports of the other," provides that American vessels driven by "stress of weather, danger of enemies, or other misfortune," to seek shelter, shall be received in ports into which such vessels could not ordinarily claim to be admitted. This stipulation is now made reciprocal.

The eighteenth article, like the twenty-fourth of the old treaty, prohibits the armament of privateers belonging to the enemies of either, and the sale of their prizes in ports of the other party.

The nineteenth is the same as the twenty-fifth of the old treaty, permitting ships of war to bring in their prizes and take them away again without payment of duties, and prohibiting the entry of ships of the enemies of either party, which shall have made prize, unless driven by stress of weather; in which case they are to depart as soon as possible.

The twentieth is the same as the twenty-sixth of the old treaty, providing for merchants and others in one country when war breaks out with the other.

The twenty-first of this, like the twenty-seventh of the other, relates to giving up persons charged with murder or forgery.

The twenty-second is a new article respecting shipwrecks, and promising humane treatment.

The twenty-third secures to each the rights of the most favoured nation, and declares that "all treaties hereafter made by either with any nation, shall ipso facto be extended in all their favourable operations to the other."

The twenty-fourth engages to join in abolishing the slave trade.

The twenty-fifth contains the stipulation that this treaty is not to interfere with antecedent engagements. And,

The twenty-sixth limits the duration to ten years from the exchange of ratifications.

It is dated the 31st December, 1806; but pre-

vious to the signature two notes were given, by the British to the American commissioners. The first keeps open for future discussion a claim of Britain not to pay more on goods sent from Canada or New-Brunswick, into the territories of the United States, than is paid on the importation of such goods in American ships. The second note declares that the King of Great-Britain has directed his commissioners, before they sign the treaty, to deliver that note, in order that a fair understanding may be had by all parties of his Majesty's views, in consequence of the blockading decree, to which the attention of the American commissioners is invited. The decree is so recent in point of time, and so novel and monstrous in substance, that his Majesty is at a loss to calculate on events: but supposing, however, that it will be formally abandoned or totally relinquished by Bonaparte, or in case he is mistaken in that supposition, he rests with confidence on the good sense of the government of the United States, that they will not submit to an innovation so destructive of the rights of neutral commerce. Should he, however, be mistaken in all these points, and the enemy should actually carry into execution his threats, and neutral nations acquiesce in such usurpation, he may probably, though reluctantly, be obliged to retaliate. The treaty secures to the United States so many privileges of neutral commerce, that at a time when his Majesty and all neutral nations are threatened with such extension of belligerent pretensions from his enemies, without any explanation from the United States what they will do in case Bonaparte attempts to force on them

his decree, his Majesty must reserve to himself to act according to contingencies in that particular, the signing of the treaty notwithstanding. And as the distance of the American commissioners from their government renders a previous explanation impossible, his Majesty authorises his commissioners to finish the treaty. This is done under the fullest persuasion, that, before the treaty returns to Europe from America ratified, time will discover the formal abandonment or tacit relinquishment of the enemy of his pretensions; or in case that should not take place, that the government of the United States, by their conduct or assurances, will secure his Majesty that they will not submit to innovations so destructive of maritime rights. But in case Bonaparte enforces his decree according to its tenor, and if neither by the assurances nor conduct of America a disposition is shown to oppose it, his Majesty wishes it to be fairly and clearly understood, that he will not consider himself bound by the signature of his commissioners to ratify; or in case he ratifies, he will not and cannot be precluded from adopting such measures as may seem necessary for counteracting the designs of his enemy, whenever they shall occur, and be of such an extraordinary nature as to require extraordinary remedies.

Before we notice particular parts of this treaty, it seems proper to observe that the signature of ministers, confidential agents, under immediate control of the chief executive magistrate, imposes on him the duty to ratify what they have done. Cases may indeed be put in which this duty, resulting from principles of good faith, does not at-

tach. Thus, when the agents employed have either foolishly or corruptly betrayed their trust, and violated their instructions, he from whom their authority was derived has in reason and conscience the right to disavow them: for it is well understood that the general power conferred by his commission, on a diplomatic agent, is specially limited by his instructions; so that if he promise what they do not authorize, his principal is not bound by the unauthorized engagement. Hence the prudential reserve, that treaties shall be ratified before they take effect. But in a case of this sort, it follows of course, that the agents be recalled as well as disavowed. Otherwise it is fairly to be inferred that they have not exceeded or varied from their instructions, but that their master breaks his faith to remedy the mischief resulting from his improvidence.

It cannot be forgotten how strenuously the gentlemen now in power used to insist that America, happily placed at so great a distance, should keep herself free from the negotiations and the wars of Europe. The phrase was "let us have nothing to do with them." A respectable federalist once replied. "Very well gentlemen. But how will you prevent them from having something to do with you?" Indeed this, like other maxims of the same origin, is not only questionable on the ground of policy, could we conform to it, but is utterly impracticable. It was used however with considerable advantage on certain occasions. If for instance it was said of any one whom these gentlemen did not like, he is well versed in the political concerns of Europe, it was promptly and

perly asked, What have we to do with Europe? And if it was observed that such men should be employed to negotiate our treaties, the complete answer was, We want no treaties. Sometimes it was added, with characteristic sagacity, let us take care of ourselves. But how? Without entering into broad questions of expedience, or examining how far we should connect ourselves with other nations, we shall only remark, in this place, that our administration after publishing those notions as sage maxims of state, year after year before they came into office, have been occupied in negotiation ever since. With what ability we presume not to say. With what success will hereafter appear.

A prudent man called on to transact business with which he is unacquainted, applies to skilful persons for assistance. But if in the common affairs of life, with which all are in some degree conversant, prudence dictates the propriety of employing agents of skill and experience, how much more are we called on to entrust such persons alone with the negotiation of national concerns; seeing that these can be but little known to the greater part of mankind. It would require a diplomatic treatise to show in how many ways an ignorant negotiator may be deceived, to the injury of those whom he represents: a treatise which such negotiator would perhaps disdain to read, and which would therefore be useless, for able men do not want it, and the great mass of the community have sufficient employment in their own concerns. To give, however, some general idea on this sub-

ject, we will take one of the usual stipulations in a commercial treaty, *viz.* that which grants to both parties all the rights of the most favoured nation. This seems, at the first blush, fair and equal. Whether it be so in reality, must depend on what those rights are; and to acquire a knowledge of them, the treaties which each has formed with other nations must be carefully examined. That we may not, on this occasion, offend any particular sect of politicians, we shall seek an example in the farthest regions of Asia. The Emperor of China opens to foreigners only one port in his dominions, where he treats them all alike. All participate in the scanty permission to trade with an exclusive company of Chinese merchants; and all feel the contempt of that people and government for every stranger. Let us suppose a treaty made with the Emperor, by the United States, in which the above mentioned clause should be inserted; and let us also suppose, that by a treaty with some other power, Prussia for instance, reciprocal liberty of trade had been given; each party paying in the ports of the other no greater or other duties than native citizens. The Emperor might in that case claim for his subjects a right to trade with every part of our country as freely as our own citizens, and yet confine us to a single port of his dominions, permit us to trade with none but particular merchants in that port, and oblige us to pay higher duties than his own subjects. True it is, we might object to his claim, and insist that he should pay for a free trade with us the same reciprocity with which

it had been purchased by Prussia. We will not enter into the argument, because the main bearing of it is not now before us. We mean only to show, by a plain case, that he who negotiates a commercial treaty ought to know something of the situation in which the other contracting party stands. It would not be amiss, also, that he should know a little of commerce and of the law of nations.

We proceed now to make a few observations on the treaty above communicated; and, for the greater perspicuity, shall notice in their order the provisions it contains, and then something which it does not contain.

On the first and second articles of the old treaty there is nothing to be said; but the third merits a little attention. It is, however, to be premised, that, standing among those which were made perpetual, the British negotiators might have objected, had it been proposed on our part to expunge it; although by the course of events it had become void in some respects, and unreasonably burthensome in others. These events, however, entitled us to insist on certain modifications. It will be recollected that this article, after granting the reciprocal right of passing through the territories of each other in America, formally excepts the country lying within the limits of the Hudson's Bay Company, and (in consistence with the British colonial system) prohibits American ships from entering the ports or navigating the rivers of his Britannic Majesty; with this single exception in our favour, to pass between Quebec and Montreal in small vessels, subject to British regulations. We, on the other hand,

give them a right to enter all our rivers, and to navigate freely to the highest ports of entry. But, with respect to the Mississippi, it was stipulated that it should remain (according to the treaty of peace) open to both parties, with a reciprocal right of resort to all the ports and places on its eastern side.

A person who cursorily views the subject may wonder at the last mentioned stipulation: and indeed the clause relating to the Mississippi in the treaty of peace itself, has, to some, been a matter of surprise. Information, therefore, may not be improper. It is well known, that, by the treaty of peace, the Mississippi, down to the thirty-first degree of north latitude, became our western boundary; and that by the provisional articles executed the 30th November, 1782, (long before the peace between England and the other belligerent powers) it was stipulated that they should be inserted in and constitute the treaty of peace. This, however, was not to be concluded until terms of peace should be agreed on between Britain and France. These were so long on the anvil, that our definitive treaty was not concluded until the 3d of September, 1783; near a year after signing the preliminary articles. The Floridas had (as every one knows) been ceded to England, in 1763, and taken by Spain in the course of our revolutionary war. It is an acknowledged principle of public law, that conquest of territory is not complete until a cession of it is made by the treaty of peace. Britain had, therefore, when our provisional articles were signed, a postliminary right to the Floridas;

and she had the intention to enter again into possession, which intention was communicated to us. Consequently, when the British and American negotiators stipulated with each other for the free navigation of the Mississippi, each gave a real substantial right, and each received a real substantial compensation. That Great-Britain intended to reserve to herself the Floridas, appears from a secret article relating to them in the provisional articles; and her treaty with Spain was negotiated and agreed to conformably with that intention. It was stipulated that Spain should restore them, and receive an equivalent. But circumstances foreign to the present inquiry, having led his Britannic Majesty to decline granting the equivalent proposed, he at length consented to cede the Floridas in full right to Spain. According to our construction of the provisional articles, Spain received that country subject to the right of navigation which we had acquired. She, however, might well contest the point, because the grant was made to us by a power not in possession at the time, nor at any time after. The controversy with Spain respecting that navigation cannot be forgotten. We of course availed ourselves of every argument, and among others asserted the supposed right of those who dwell on the banks of navigable rivers to pass through the territory of their neighbours in their progress to the sea. This question, often agitated, has been decided differently, in fact, according to the different relations of power; but in principle and general practice it has been held that no such right exists. A strong case in point is that of Den-

mark, who exacts a duty from ships of all nations passing to and from the Baltic. The grant of Britain, therefore, being one ground of our claim, then unsettled with Spain, Mr. Jay prudently inserted a recognition of it in his treaty. The stipulation, in so far as it related to any right conferred on Britain, was indeed a nullity; because the Mississippi, not extending so far north as had been supposed, she did not possess one inch of territory on its shores: neither had she any right, or even pretext to enter its mouth, then in peaceable possession of his Catholic Majesty.

Such was the state of things when the old treaty was made; but circumstances have materially changed. We have purchased not only that part of West-Florida which joins the Mississippi, but the island of New-Orleans also. It is true, that, from conduct which we shall not, on this occasion, develope, we have furnished to Spain a good pretext, perhaps a good reason, for withholding our share of West-Florida. But let those matters be settled as they may, it is unquestionable that we have acquired the right to exclude the British from the Mississippi. Should it be pretended that the stipulations in the old treaty give them a right to navigate that river, it may be answered, first, that those stipulations are made in reference to, and conformity with the treaty of peace; and, secondly, that our grant extended only to things which we possessed, and can by no fair construction embrace what we might afterwards acquire. This principle of common sense forms an acknowledged maxim of public law.

We conceive it evident, therefore, that British vessels have no more right to enter the Mississippi than American vessels have to enter British harbours in the West-Indies. Whether it would be wise to grant such right may be questionable; but certainly we ought not to grant it without an equivalent, much less in the very article, and, as it were, in the same breath by which we renounce our claim to enter and navigate the St. Lawrence. We have on the shores of this river, and of its tributary waters, a great extent of valuable land; yet, by the sweeping clause which confirms without modification the first ten articles of the old treaty, we should resign all claim to navigate the St. Lawrence from the sea, and afford to the British a pretence to navigate the Mississippi through its whole extent. Such would, we presume, be the construction of British commentators. If denied on our part, it might become the source of cavil, perhaps of quarrel. If admitted, we should discover that the concession of a great and valuable privilege had been unwittingly made, without the slightest equivalent. Should Great-Britain wish to trade with us on the Mississippi, she would certainly pay for it, by granting us a like permission on the St. Lawrence. This would do her no injury, nor even occasion any inconvenience. Nay, it might, under certain circumstances, be advantageous to her. To us it is of great and growing importance. Our territory on the waters of the St. Lawrence is worth much more than what we purchased from France, and have now to dispute with Spain, under the name of Louisiana. Our citizens who inhabit that part of

America, would be materially benefited if their produce could be sent, in American bottoms, free from war-freight and insurance, to seek the best markets. They are at present confined to the ports of Montreal and Quebec, where they must take the prices British merchants choose to give, or transport their goods one hundred and fifty miles to Albany.

The fourth article of the old treaty was framed to obviate difficulties in the second article of the treaty of peace, fixing as our northern boundary a line to be drawn due west from the Lake of the Woods to the Mississippi. And the fifth was framed to obviate difficulties respecting our eastern boundary.

Subsequently, however, to the year 1794, a survey of the interior of America, by British merchants established in Canada, under the name of the North-West Company, had proved that a line due west from the Lake of the Woods would run north of the Mississippi; so that no further measures were needful to ascertain that point. The River St. Croix, also, had been identified. Two points, however, remained to be settled; the line from the Lake of the Woods to the Mississippi, and the termination of that which was to run north from the source of the St. Croix, on which depends a large tract of country in the district of Maine. Connected, also, with our eastern boundary, is an object of little intrinsic value (Moose Island), but important to the trade of Massachusetts, and to the revenue of the United States. Another matter of considerable importance, particularly to the State

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of New-York, had remained unnoticed. This was the ascertaining those islands in Lake Erie, Lake Ontario, and the River St. Lawrence, which belong to the United States. Much time must elapse before the north-eastern corner of Maine, or the regions at the source of the Mississippi, can be cultivated or sold; but it was discovered in 1801, that depredations were committed on islands in the St. Lawrence, producing excellent white pine, and on islands near the mouth of Detroit, covered with valuable red cedar. It is moreover self-evident, that a tract of doubtful jurisdiction, extending upwards of one hundred and twenty miles along the northern frontier of New-York, from the village of St. Regis to the head of Grand Isle, must impede the regular course of justice, and encourage to the commission of crimes by the hope of impunity. In the first year of Mr. Jefferson's administration this matter was brought before Congress, and, after due investigation, appeared of such importance, that "a sum not exceeding ten thousand dollars was appropriated to defray the expense which should be incurred in negotiating with the government of Great-Britain, for ascertaining and establishing the boundary line between the United States and the British province of Upper Canada." This law was approved by Mr. Jefferson on the third day of April, 1802. The object of the Legislature could not be mistaken, for the appropriation of money shows they did not contemplate merely a convention between the American minister in London and the British cabinet, that would cost nothing. The amount of the sum granted proves also that it

was the intention of Congress to have the business performed in a solid and durable manner. The President must therefore have known, even if the object had not been specially declared by those who brought it forward, that it was the desire of Congress to *ascertain* and *establish* the boundary line by commissioners, who should repair to the spot, designate the limits, and cause proper monuments to be erected. Every one acquainted with our public proceedings knows that a grant of authority is considered as an injunction to perform the act specified. That gentle manner of expressing the public will was adopted from respect for the first magistrate. Moreover, if the two houses should require any thing which he deems improper or inexpedient, he will of course withhold his assent; wherefore his approbation implies a promise that he will comply with their wishes. Thus then the law just cited amounts to an order of Congress, and a promise of the President to *ascertain* and *establish* the boundary between the United States and Upper Canada. It remains to inquire whether that engagement has been complied with; and if not, what were the impediments.

Instructions were given to the American minister in London, which embraced all the matters above mentioned, excepting only those contemplated by the law. The minister accordingly treated with the British government; and such was their confidence in him, and their liberality towards us, that he was desired to frame a convention agreeably to his own wishes. He drew it in the very words of his instructions, and it was

immediately executed. Every thing asked was granted, and there can be no doubt that if the object of the law had been brought forward, it would have been as readily and as satisfactorily adjusted. At present it remains as it was, the evils daily increasing.

The convention, however, made complete provision for the subject matter of the fourth and fifth articles of the old treaty. It fixed our eastern boundary, settled the course of a line from the Mississippi to the Lake of the Woods, and confirmed our title to Moose Island. It was duly sent over to America; was received, and was mentioned by the President to the Congress as a satisfactory arrangement. So far all went on smoothly. But previous to a ratification, the Louisiana treaty came forward, and seems at once to have fascinated our administration. Instead of considering the conditions of this costly bargain, they considered only how they should secure the merit of making it to themselves. And instead of adopting prudent measures to possess the valuable tract east of the Mississippi, which was clearly within the grant, they set their fancies to work in stretching the boundary north and west, so as to reach the polar circle and Pacific Ocean. Careless of the centuries which must roll away before we can populate our old domain, the President, in his anxiety not to loose one acre of those prodigious deserts which extend from Lake Superior to Nootka Sound, refused to ratify the convention, lest it should be supposed that something was thereby surrendered of what we had purchased under the name of Louisiana. This may

seem incredible, and we will not vouch for the truth. The true cause of his refusal may be one of those mysteries which it is convenient to hide from the people. But it is a fact that the convention was not ratified, and that the President assigned for the omission the reason just mentioned. Whether it will satisfy our fellow-citizens we cannot pretend to guess. Perhaps, like other things which pass our comprehension, it may be sanctioned by that confidence in his wisdom which numerous individuals and respectable bodies so eagerly announce to the world. We believe, and not without reason, that it gave great umbrage to the British court. They considered themselves as trifled with, and could not help considering those who administer our government as capricious and inattentive to the rules of good breeding and the principles of good faith. When we compare the tenour of the note above mentioned from his Britannic Majesty, with this deportment of our President, the advantage, we are sorry to say it, is all on the monarch's side. His commissioners had agreed to a treaty; but, at the moment of signing, a circumstance of extraordinary nature arose, leading to a belief, that, should the claim set up by his enemy be acted upon, and should we submit to threatened plunder, the great duty of a sovereign to protect his subjects might compel him to adopt measures of retaliation. Under circumstances of that sort, the injury we might sustain would be justly imputable to our own conduct. We could not, therefore, have complained: and no previous explanation on his part was necessary. Yet, so scrupulous was the

King, so anxious that his reputation for good faith should be not only unsullied but unsuspected, that he provided against all possible imputation by a clear and pointed declaration. Our President, on the contrary, after ordering negotiation, after obtaining a convention in the very terms he had dictated, and after publicly declaring his satisfaction with it, all at once refuses to ratify. What excuse he may have made, or whether he made any, we pretend not to know; but we hope he did not assign the reason above mentioned; because it is not only insufficient, but dangerous. It is predicated on the false position, that covenants respecting territory we possess will be obligatory as to that which we afterwards acquire. Whence it would follow, that the purchase of Louisiana, and that which we are about to make of the Floridas, must enure to the benefit of England for every commercial privilege in the treaty of 1794.

Having taken this cursory view of the ten permanent articles in the old treaty, we proceed to those matters, the provisions relating to which had expired. It will be recollected that the gentlemen by whom, and under whose auspices the new compact was formed, had selected, from the whole of Washington's administration, the treaty with England as the object of their peculiar censure, and most pointed crimination. That treaty, though negotiated under circumstances of peculiar difficulty and disadvantage, was devoted to popular odium without examination. It was said to curtail our trade, drain our treasury, surrender our seamen, restrain our manufactures, discourage our agricu'-

ture, involve us in war, and degrade us to the state of British provinces. That treaty, concluded by a statesman of sound sense, consummate prudence, and incorruptible honesty; approved by a Senate of no mean talents, and ratified by the illustrious Washington; that treaty, for defending which men respected for their discernment, their judgment and fidelity, were exposed to the insult of an enraged and misguided populace; that treaty is no more. After fulfilling the hopes of good men, and falsifying the predictions of others; after procuring a surrender of the western posts, and thereby terminating Indian wars; after closing the wound our public faith had received, by laws contravening the treaty of peace; after obtaining, for injury done to our trade by British cruisers, a compensation greater than any thing which had ever been paid by one nation to another; and, above all, after securing us from an alliance with France, by which we could have gained nothing, but must, like her other allies, after the loss of our wealth, our commerce, our industry, and our morals, have sacrificed our independence on the altar of Gallic ambition; that misrepresented, decried, and vilified treaty has expired. It expired when its enemies had exclusive possession of the government; when, by the influence of party, they had unlimited power; and when a majority of the people, renouncing the use of reason, reposed in them unbounded confidence. It expired when England, whom they had pourtrayed, in 1794, as on the verge of bankruptcy, and in the last stage of decrepitude, was not only laden with a new and

accumulated burthen of debt, but was engaged singly in a war against France, Spain and Holland. America, on the contrary, had increased in strength and wealth beyond all example, and possessed resources beyond all hope. In a word, we were released from our engagements with Britain; at the moment of all others, when those now in power, had their opposition been founded in reason or truth, were bound to perform what they said it was so easy for their predecessors to accomplish; and for the omission of which, they branded with foul imputation the ablest and best men in America; men who would do honour to any age or nation. In these circumstances it might be asked, if our rulers have remedied (in 1806) the evils which (in 1794) they imputed to their predecessors as criminal neglect. It might be asked whether England had ceased to impress seamen from American vessels, and permitted our ships to protect the goods of her enemy? Whether she had reduced the impost on our raw materials, or taken off the excess of duty on her own manufactures exported to America, beyond what they pay on going to other countries? Whether she has permitted us to enjoy a free trade with her colonies, or modified her navigation act in our favour? Whether she has discontinued the exercise of her right of search, or relinquished her system of blockade? To these questions no satisfactory answer can be given. We shall not, therefore, urge them. It is not our object to be severe; for if it were, we should say, Gentlemen, you complained of sacrifices made by the treaty of 1794; and not only opposed the

ratification, but tried hard to excite opposition after it had been ratified, and thereby become the supreme law of the land. Now, then, point out distinctly those sacrifices, if you would exculpate yourselves from the charge of uttering falsehood to excite sedition. And having designated them, give good reason for bearing patiently now, when there is nothing to be gained, and nothing to be feared, what you insisted should not be submitted to then, for valuable consideration, and to avoid impending danger. In the alternative to which you have reduced yourselves, say! were the American people deceived then, or are they betrayed now? This would be the language of crimination. But we have no wish to criminate. We really believe these gentlemen complained so much because they knew so little.

We proceed, therefore, coolly and impartially to examine what they have done, and to compare it with what they denounced. If their work be better, let them, notwithstanding the more favourable circumstances, have praise and glory. If worse, let us pity and forgive. They insisted, that with respect to our India trade, the old treaty had worked material injury, by depriving us of privileges enjoyed before—That it took away the benefit of coasting between the different ports of Asia, and prevented us from supplying Europe with commodities direct from India—That it was a grievous hardship to be obliged to return home, and unlade the cargoes of the East before they could be vended abroad—That a little intelligence would have taught our negotiator the importance of the

privileges he gave up, and a very little firmness have enabled him to secure them. To prove his incapacity, or infidelity, it was observed, that immediately after the treaty was made, an act of the British Parliament bestowed gratuitously on all the world, more than we had obtained by great sacrifices. It was vain to reply, that what one law had granted, another might resume—That to secure great objects, by surrendering small ones, was better than to leave both at the discretion of those who might take them away—That although the interest of Britain led her at that moment to permit, that we and others should enjoy more than she had granted to us by treaty; yet her interest might change, or new men might adopt new measures, from false or partial views, from pique or caprice. To this, and to every thing else, a deaf ear was turned. The object was not to reason, but to condemn, and therefore assertion was accepted for proof, and clamour for argument. Let us then compare the third article of this new treaty with the thirteenth of the old one, and see how our India trade will stand. Worse than before—much worse. Every old restriction remains, and a new one is added of most serious effect. Our vessels trading to India must now sail direct from ports of the United States. Formerly they could be fitted out and laden in Europe. They could proceed from Germany or Holland to France and Spain, take in brandy, wine and bullion; thence to Madeira, and so on. This cannot now be done; they must sail *direct* from the United States

It has already been mentioned, that the fifth article of the new treaty contains regulations respecting the duties on ships and merchandize. To estimate their worth, we must compare them with provisions made on the same subject by the fifteenth article of the old treaty. This reserved a right to Britain of countervailing, by duties on our vessels entering her ports, the excess of duties paid on European and Asiatic goods in her vessels entering our ports: a difference which operated strongly in our favour, and made us almost the exclusive carriers of articles for our own consumption. Britain saw, with concern, the flourishing state of our navigation; and tried to restrain it by making regulations according to the right she had reserved. But the attempt was vain; for she could not lay a burthen on the articles carried to her in our ships, without injuring her general system of trade and manufactures. Thus, although each enjoyed equal rights, our's could be, and were, exercised with advantage; her's were useless. A difference of this sort must exist, when nations, under circumstances materially different, make reciprocal covenants of the same import. Of this the new article before us presents an instance of no common magnitude. It declares that the same duties, drawbacks, and bounties shall be allowed by both parties, in the trade of the two nations, whether the exportation or importation shall be in British or American vessels. By these few, but potent words, our relative situations are completely reversed, and a few years of peace would nearly annihilate our navigation. This apparently liberal provision was always a favourite

object of the late Mr. Fox, whose intuitive genius saw clearly its effect. Indeed, rather than fail of obtaining it, he was willing to open, on the same terms, their West-Indies to our shipping. It was a favourite also with our President, because it has a sort of philosophic appearance: perhaps also, because it seems to favour those who cultivate tobacco. That it would injure them, as well as every other class of the community, is evident, both from reason and experience. It is evident from reason, because that commodity must, like others, be reduced in price, when one nation has a monopoly of the trade; and that must happen when the navigation of the world belongs to one nation. It is evident from experience, because the price of tobacco has advanced as American navigation has increased. But without spending time in seeking the reasons for particular opinions, let us examine the article. There was a time when ships could be built in the United States cheaper than in Europe; and although they were navigated at greater expense, yet the advantages of sailing derived from their construction, and the superior activity of our seamen, enabled us to compete for freight with the Dutch and English. But circumstances have greatly changed. Ships, from the high wages given to our mechanics, and the high price to which timber has risen, cost more than in Europe. Sails and rigging are out of all proportion dearer, and so are seamen's wages. In time of peace, insurance will also be cheaper on British than on American ships. Thus, then, we are to contend for the carriage of our produce, and of the

articles we consume, with a nation possessing the advantage over us in equipping and navigating ships as well as in the insurance. Perhaps it may be said that we can build as cheap as the English; and it shall, for argument's sake, be admitted that we might build even a little cheaper. But this circumstance would be of little avail when opposed by others so much more powerful. Nay, were they all equal, the superior capital of Britain, and the resulting lowness of interest, would be decisive in her favour. It may be said that trade and money seek a level, which in time would be found. In other words, that the wages of ship-carpenters, black-smiths, rope-makers, sail-makers, and seamen would fall so low, from being out of employ, that notwithstanding the higher price of hemp, iron, copper, duck and cordage, our merchants might (at some future day) resume the contest with better chance of success. Rare consolation! Our merchants being ruined, and, in consequence, the dependent members of our country's commerce reduced to misery, these poor people, to obtain bread for their families, must work lower than men of the same description in Europe, so as thereby to compensate the higher price of materials: in which case a merchant may begin again, if he shall have been so prudent or fortunate as to save a little from the wreck of his affairs. On general principles this result might be admitted. But is it certain that our sailors would remain idle rather than embark in British bottoms? Is it certain that the numerous artificers now employed in building and equipping ships would quietly starve, instead of seeking other employment?

Is it certain that young persons would continue to learn trades of such little hope? We acknowledge that different impressions are made on our minds. We believe that the blow given to our trade and navigation by this improvident concession, would throw them back to what they were twenty years ago. And we have no shadow of doubt, that by the prostration of our commerce, every order of our fellow citizens would be grievously afflicted.

But if the fifth article of the new treaty be of such portentous import in itself, what is it when connected with that which immediately precedes, and that which immediately follows; or rather, what is it not? We have seen that our ships trading to India must sail from and return to our own ports; and that, in the trade of the two nations, equal duties shall be imposed, be the ships British or American. When these conventions are ratified, nothing more will be needful for Britain, to perfect her system, than to modify the monopoly of her India Company, so far as to permit all her merchants to trade freely with Asia, provided they do not bring Chinese and India wares to Europe. A British ship could then sail from London, pick up in the way whatever might be needful to the assortment of her cargo, traffic along the coast of Malabar and Coromandel, proceed to China, and at length come full fraught with tea, coffee, sugar, spices, silks and cottons, to the United States. She could undersell our own adventures in our own ports, and return laden with our most valuable commodities, and our coin, to reward the industry of those who live under a wise government. If any

one should imagine that we could trade to India under such disadvantages, we intreat him to apply for information to an intelligent merchant in whom he has confidence. We could show, by facts amounting to a demonstration, the truth of what we advance; but it would occupy too much space. We refer to merchants, without regard to their political sentiments. But the India trade requiring large capital, it is possible that small dealers may, under the influence of envy, be not unwilling that foreigners should run off with the benefit which has hitherto cheered and cherished our commercial enterprise. Let such persons look at the next succeeding article, which states, that as the parties cannot agree about our trade to their West-Indies, they will attempt an amicable arrangement, and, in the mean time, both may exercise their existing rights. A more cutting irony was never perhaps inserted in a national compact. What are the existing rights? That of the British is to exclude us from their islands; a right they will certainly exercise. If, in return, we prohibit them from bringing the colonial produce from the islands direct to us, we must go and fetch it from Europe; paying, of course, in addition to the prime cost in the islands, a freight across the Atlantic in their ships. But the mischief would not stop there. They would not give us the trouble of fetching it, but would themselves bring it out; for which we must also pay. They could underwork us, for the reasons already assigned; besides, their ships, which must otherwise come in ballast to take a cargo of lumber to the West-Indies, or other bulky produce of the

United States, would for a very light freight bring us rum and sugar. Nay, they would have a still greater advantage. Returning to Falmouth from the West-Indies, they would only go through the ceremony of entry and clearance, and, saving all charges and commissions, come directly over to the United States. To exercise our right, therefore, in this way, would only do us mischief. It may, perhaps, be supposed, by some, that we could supply our wants from the French or Spanish islands. But it is easy to see that every other nation would be as eager to secure to itself the whole advantage of its colonial trade as Great-Britain, and indeed we have found it so by experience. Besides, it is a strange way of conducting business to make a very bad bargain with one, in the very uncertain hope of a better bargain with his neighbour. We have, however, another right which is not impaired by the treaty. It leaves us at liberty to make them pay roundly on the export of our produce to their islands: but this would be a bounty on the agriculture and arts of Canada and Nova-Scotia, than which nothing could be more agreeable to the British government. Such duty, however, cannot be laid; for although the right is not impaired by the treaty, the exercise of it is inhibited by the constitution. To say, therefore, with apparent equity and equality, that both may exercise their existing rights, is bitter mockery to men in our pinching condition.

It has often been remarked by observers of human nature, that the fond and foolish many (in the blindness of ignorant passion) run counter to their

own wishes, and do precisely what they strive to avoid. If such inconsequence were chargeable only on those who, enrolling themselves under the banners of faction, have the prescriptive right to be absurd, it would be so much in the common order as not to deserve a moment's notice. But the bell-weather's of the flock are, generally speaking, as poor and simple cattle as the rest. It is supposed that they who direct our affairs, if they have any special sentiment beyond the desire to continue in office, are moved by a snarling, snappish humour towards England. Indeed, they have reason to be somewhat angry with the British government, because its measures have defeated their claim to the character of statesmen. It is certainly owing, in some degree; to the efforts of that government, that England has neither become bankrupt, nor been enslaved, nor starved, nor subdued by France; all which they have constantly predicted for the last fifteen or twenty years, with a zeal and perseverance the more laudable, as they derived no support from reason, truth or probability. Men who look only skin-deep for motives, and take words for the evidence of things, were led to suppose that they who coupled Washington and Britain together, for the sake of abusing both, were as much the enemies of one as the other; and that when in power, their measures would be marked by wrath against the lords of the ocean. But no opinion could be more unfounded: so far at least as action is concerned, the hostile temper, if it really exist, has produced only acts of friendship and good will. There has indeed been much complaint, much

cross language, and not a little of idle, empty menace. But what evidence have our rulers given of a disposition to injure Britain, or even to secure our country against her power? Have they prepared a fleet to join other powers in vindicating the liberty of the sea? Have they fortified our ports against that aggression which we have to apprehend from Britain alone? Have their regulations at home or negotiations abroad assisted the spirit and enterprise which have raised us to be the second naval and commercial nation? Surely they have not. They have boasted, negotiated, been flattered, and duped. They have laid our commerce and navigation at the feet of Britain; so that a stranger who, deaf to the clamour, should attend only to the conduct of our rulers, might suspect that some of that British gold, so much talked of, had found its way into their pockets. We take this occasion, however, to declare that we harbour no such unworthy idea.

In the eighth article, after agreeing, as in the seventeenth of the old treaty, that all proper measures shall be taken to prevent delay in deciding the cases of ships and cargoes brought in for adjudication, on the suspicion of enemy's property or contraband of war, and in the payment or recovery of any indemnification adjudged or agreed to be paid to the master or owners; the British commissioners have added, on the part of their sovereign, a promise, that hereafter indemnification shall be granted for unjust seizure, and detention, and vexation. This gratuitous covenant is a master-piece. The tribunals were bound by the principles of public law

to award, adjudge, and enforce prompt payment of indemnification for the injuries specified. What, then, is the effect of this promise? It neither imposes a new obligation on the admiralty courts, nor invests them with a new authority; but rather implies a doubt with respect to the law; because, if that be acknowledged, no auxiliary promise can be required, unless indeed the national justice be questioned; in which case no promise can be relied on. Thus, then, the law, which, founded on reason and equity, would be liberally construed, is reduced to a gratuitous engagement; which being penal, as regards delinquents, will be construed strictly. Wherefore the power of the court remaining as it was, the exercise of it is restrained; and our right is rendered less clear, and must become less productive. Such appears to us the necessary effect of any such provision, be the form what it may. But the British commissioners, by inserting the word *hereafter*, have taken from us the claim to compensation for injury already sustained. And our negotiators, by admitting that word, have given up thousands due to their fellow-citizens. American suitors, in the British courts of Admiralty, will now be told, that under the law of nations, as it stood before this treaty, violence would have been punished, and indemnification been granted for injuries sustained; but, the two nations having agreed to bury the past in oblivion, the hands of the judge are tied up by the act of his superiors: That he cannot grant, neither ought they to ask what the two governments have agreed to relinquish.

The dexterity of the British commissioners is again displayed in the eleventh article. The questions which gave rise to a pamphlet called War in Disguise, and to a book written by Mr. Maddison, are fresh in the recollection of all. This book, indeed, as was shrewdly observed in the house of representatives, gave up the matter in dispute at the very outset. By quitting the ground of right, derived from, and the appendage of national sovereignty, to rely on a supposed general consent, which results from convenience and changes with circumstances, our Secretary of State unfortunately played his game into the hands of his adversary. We cannot admit, however, that a weak argument shall destroy a good cause. The case has been stated by others, whose reasons we will neither repeat nor refer to; because the question is recent, and because the general opinion (not only of America but of Europe) is well established. The right of a neutral to proceed from his own ports to those of a belligerent, with articles his own property, not contraband of war, is admitted; and the pretended right to examine how he came by the goods, is considered as an odious usurpation. It is, we say, a principle generally assented to, as resulting from the nature of sovereignty, that no person shall inquire into the means by which, or the place from which property has been brought within the territory of a neutral state, further than as it may serve to cast light on the question, whether it belong to a neutral or belligerent. This principle seems to be so intimately blended with the national sovereignty, that it cannot be surrendered. We have no view to

the convenience or profit of merchants. On the proper occasion we shall pay those gentlemen the respect to which they are entitled; but we do not consider this as the proper occasion. We are now engaged in matter of a higher order than commercial interest; one which is not to be tested by considerations of profit and loss. We must, therefore, examine the article in its relations to a national right, which, in our opinion, it has surrendered.

It begins by permitting us to carry European goods to the colonies of enemies of Great Britain, from the ports of the United States. Thus one point is given up; the right of trading freely from one port of a belligerent to another; a right acknowledged and asserted by all good writers on public law. It is not our object to please a party, but to establish truth. We anxiously wish that our country may take a firm stand on principle: and that her honour, dearer to us than the blood which warms our heart, may not be compromised in a contest of doubtful complexion. Wherefore, that we may be well understood, and that we may not be misunderstood, we promise and acknowledge; that, while the powers of Europe maintain their colonial system, and relax from it occasionally under the pressure of necessity, or from the prospect of advantage, there is a presumption that trade carried on by neutrals, between a belligerent country and her colonies, is merely a cloak and cover injurious to the other belligerent. He therefore can, rightfully, exact strong evidence that the property is neutral. And since melancholy experience proves that, on such occasions, perjury appears at the call

of interest, to protect fraud, it ought not to be wondered at, that he should so far extend the force of presumption as to receive it in contradiction to testimony. When, under this aspect, the matter is discussed with the neutral government, both stand on fair ground. The neutral, whose right of sovereignty is not questioned, will, from a sense of justice, agree to regulations by which the property in goods shall be more clearly ascertained. And since, after all possible checks, fraud will be committed when the opportunities are inviting, he may, from the same sense of justice, be induced to admit, that the circumstances attending such a trade are sufficiently strong to justify the induction of the belligerent. And it would not be at all improper for him to agree on severe penalties, to be exacted from those who persist in covering the goods of one enemy from the pursuit of another. We venture to believe, that this fair and candid course would subserve the interest of the neutral himself. If, however, from an interested connivance in the fraud, or from partiality to the other belligerent, he will not enter into fair stipulations, the rights of the adverse party not only remain, but are strengthened; and he may justly extend the exercise of them: always understood, that the neutral, who thinks himself aggrieved may resort to arms. In this fair course there is no assumption of superiority on one side, no submission to insult on the other. The independence of the neutral is not questioned; his sovereignty is not violated. The fiscal result would, indeed, be the same, whether it be assumed as sufficient proof of French property

that goods on board an American ship were going from Bordeaux to Martinique, or declared that the trade not being permitted in time of peace, the property, though American, shall be confiscated; but the consequence, as it affects our honour, would be widely different. Besides, the former principle is of necessity bounded within narrow limits; but the maxim, that a neutral shall carry on only his usual and accustomed trade, may be extended so as to embrace whatever the belligerent may desire. Once agree to it as a principle, and attempts to limit the operation will be vain. Moreover, it must be always remembered, that a stipulation in one treaty is more fatal to the question of right, than the pillage of a dozen wars. The pillager may indeed cite, as precedent, his former violence on every new occasion. The argument that one injury will justify another, has been frequently urged, and as frequently refuted; but when, by solemn compact, one party acknowledges as a right the injurious claim of another, he is bound by his own act, and must submit to the consequence.

The article before us permits the carriage of European goods, from our ports, to the colonies of enemies of Great-Britain, under three conditions. The first is, that vessel and cargo are *bona fide* American property. This condition is proper and consonant to public law. Had the subsequent restrictions been stated as conventional evidence of that fact, they would, in the present point of view, have been unexceptionable. But standing as they do, distinct additional conditions, they are the acknowledgment, on our part, that we have not the

right to carry our own property from our own ports to the colonies of a belligerent; an acknowledgment which ought not to be made.

The second condition is, that the goods shall have been unladen in the United States. Here another unfounded claim of Britain is admitted; a claim which, with all the deference due by citizens of one country to the government of another, we presume to believe she was wrong to make, because she would hardly permit it to be exercised against her own merchants. We feel a strong persuasion, therefore, that if this point (which had been assumed by her courts) had been properly represented to her ministers, they would have abandoned it. But certainly, even if, from prudential motives, we should submit to such an exercise of power, we ought never to acknowledge that it is legitimate. The stipulation in this treaty is precisely what Britain must desire, and every way injurious to us. In relation to our claims for the past, her courts will say, you have deliberately assented to our principles. In future wars they will set it up anew, and insist, that as we submitted before from rational conviction, (and we shall hardly be disposed to stultify and brutify ourselves by alleging that we acted from folly and fear,) we ought again to submit. But, should it so happen that we, being at war, while Britain is at peace, should claim the privilege she takes, her government would resist; and we should find ourselves in the wrong. They would frankly admit, that, to promote the interests of the war in which they

were engaged, they had found it necessary to make an extraordinary stretch of power. That we had, indeed, complained, and our government had, for the form sake, remonstrated; but, wishing well to their cause, and desirous of promoting their success, as far as it could without breaking with friends at home, or making enemies abroad, had thought it on the whole most adviseable to submit. They would go on, in support of this assertion, to observe, that when matters came to be adjusted, by treaty, an article was inserted confirmatory of the practice. But so far were the parties from admitting any general principle, or supposing that we should ever think of retaliating, that the article related solely to us, provided for a special case of the moment, and contained no reciprocal stipulation. We should then be politely told, that, to make the cases analogous, we must show that preponderance of force to which we had thought it reasonable and just to submit. This would be no easy matter. But, a matter much more difficult would be to bend the high spirit of England, and persuade her to brook national degradation. While on this part of the subject, it may not be improper to add, that the language which, under the circumstances supposed, it might be competent to Britain to hold hereafter, it is competent to France to hold now. Our assent to this unequal stipulation may be considered as evidence of partiality. Our government may, in proof of its love to France, quote its friendly professions; but, whether Napoleon and Benevento repose in the President's professions that confidence which

many among us express in his talents, may admit of some doubt.

The last condition under which we are permitted to exercise our right, is, that we shall lay an export duty of one per cent. on European goods sent from the United States to colonies of the enemies of Great-Britain. Hitherto the sacrifices made affect only commercial interest and national honour; objects for which much indifference has formerly been expressed by some great men of the day. They freely declared, that for neither they would risque the chance, nor bear the expense of war. They were, nevertheless, loud in expressions of love for the constitution. That constitution, once the theme of their execration, is now the idol of their affection. And with reason; for they have found out the secret of turning it to good account. But the constitution says, in express terms, "no tax or duty shall be laid on articles exported from any State." And the treaty exacts, as a condition on the carriage of goods from the United States to the islands, that in addition to the duty reserved on exportation from the drawback, the further sum of one per cent. ad valorem shall be paid. We are not among those who consider the restriction in our constitution as wise. We know it to be among those which, unreasonably insisted on by some members of the national convention; was submitted to by others, from that deference and concession which the peculiarity of our political situation rendered indispensable." The clause, however, is there. Legislative ingenuity will no doubt be exerted, it

needful, in reconciling it with the article of the treaty. Merchants will perhaps be told there is no compulsion. They may pay or let it alone. If they pay, the custom-house will give a certificate. If not, they may depart and take their chance. Perhaps, in greater tenderness for the constitution, it may be thought adviseable that the legislature be silent, leaving matters to be settled between the executive and the merchant. This would be an excellent contrivance; for it would enable the President, with two thirds of the Senate, who (as every body knows) have unlimited confidence in him, and were chosen for that very reason, to tax the good people of these United States; provided they can get the assistance of a stout maritime power. It might be asserted, on the part of Great-Britain, that the soldiers of Napoleon, who undergo hardships scarcely credible; and have entreated their enemies to terminate at once their misery and existence, would certainly revolt, if physical as well as moral means were not employed to secure their obedience—That the narcotic effects of tobacco; which they use in profusion, have astonishing influence in calming nervous irritation; whence it is evident that Napoleon's troops could not bear up under their calamities, without a pipe of tobacco. This argument has the merit of resembling that by which it has been demonstrated, that France carries on the present war with sugar and coffee received from this country. It would, therefore, equally justify the prohibiting our merchants to furnish the enemies of Great-Britain with tobacco, under the usual penalty of confiscation.

After a few months more of able negotiation, a new clause might be tacked to the treaty, allowing tobacco to go free, provided an export duty were paid of ten per cent. This would enable the collectors, always, however, with the merchant's consent, to levy the ten per cent. Experience has proved, that, if no direct application be made by the tax-gatherer, this enlightened nation cares not what is collected, nor how it is applied. Some of them, indeed, suspect that possibly they may pay, in the price of necessaries they consume, a small part of the duty on imports. But this new contribution would come so completely out of the merchants, that it would be quite delightful. It might, moreover, be applied at the discretion of the President, and save the necessity of asking Congress for appropriations to objects undefined. This would be another prodigious advantage. For although such appropriations, once supposed to be unconstitutional and dangerous, are now found to be proper and very convenient; yet some friends of government feel a little squeamish, look a little awkward, and have somewhat of a qualm in voting for them. Wherefore, as it is troublesome to deal with men of timorous conscience, it would be no small improvement on our system, so to arrange matters as that business might go on smoothly without their assistance. It would, moreover, be of use to the poor men themselves, who find it rather difficult to satisfy certain troublesome creatures, called constituents, that the new congressional game of blind-man's-buff is altogether fair. Hitherto, indeed, they have got through tolerably well by the

aid of that excellent word confidence; but since nothing human is immortal, so it begins to be suspected that confidence, even in the President, may at length expire. Some new expedient, therefore, ought to be adopted. And what so proper as to raise taxes by treaty?

The article having provided for our trade with the belligerent colonies, and prudently left the trade from them unnoticed, so that, for any thing which appears, Britain may seize colonial produce coming from her enemy's ports to the United States, goes on to regulate the export of such produce to Europe. It is permitted under conditions similar to those just noticed. The goods must be unladen, and they must pay an export duty of two per cent. ad valorem. Let it not, we pray, escape the reader's notice, that the conditions imposed by no means affect what is called the neutral carrying trade; that is to say, the unfair practice of covering, as neutral, the goods of a belligerent. They neither arise out of the right which one enemy has to attack and destroy the commerce of another, nor do they tend to check the abuses about which we have heard such loud complaint. If, indeed, enemy's goods were subjected to the charges of landing and relading, together with the duty on export, while bona fide neutral goods were exempted, it would doubtless discourage the illicit trade. But this was not the object. The whole scope and tenor of the article is to lay our trade under impositions and disadvantages, so as to favour and encourage the trade which the English (by connivance of their government) carry on with their enemies:

We have before us a copy of royal instructions to the Lieutenant-Governor of Jamaica, dated at St. James's, the fifth day of July, 1804, in the forty-fourth year of his Majesty's reign. They run thus:

“ Whereas we have thought it expedient that permission should be given to vessels belonging to the subjects of his Catholic Majesty, having not more than one deck, to trade between the free ports established in the island of Jamaica and the Spanish colonies in America, according to the regulations of the several acts for establishing free ports in our West-India islands, notwithstanding any hostilities that may occur; and whereas we have thought it expedient, that, notwithstanding such hostilities, permission should likewise be given to British vessels, navigated according to the laws now in force, to trade between the said free ports in the island of Jamaica and the Spanish colonies in America, provided such British and Spanish vessels shall have a license from the Lieutenant-Governor or Commander in Chief of the island of Jamaica, and provided such British and Spanish vessels shall import into the free ports in the island of Jamaica, such goods only as are hereafter enumerated, viz. wool, cotton wool, indigo, cochineal, drugs of all sorts, cocoa, tobacco, logwood, fustick and all sorts of wood for dyer's use, hides, skins and tallow, beaver and all sorts of furs, tortoise shells, hard wood or mill timber, mahogany and all other woods for cabinet ware, horses, asses, mules and cattle being the growth and production of any of the colonies or plantations in America belonging to the crown of Spain, and all

“ coin or bullion, diamonds or precious stones, com-
 “ ing from thence ; and provided such British and
 “ Spanish vessels shall export from such free ports
 “ only the said goods and commodities, and also
 “ rum, the produce of any British island, and also
 “ all goods, wares, merchandizes and manufac-
 “ tures, which shall have been legally imported,
 “ except masts, yards and bowsprits, pitch, tar,
 “ turpentine, and all other naval stores and tobacco.

“ We do hereby authorize you, our Lieutenant-
 “ Governor, or Commander in Chief for the time
 “ being, of the island of Jamaica, to grant licences
 “ accordingly. And do further require and en-
 “ join you to give all necessary encouragement and
 “ protection to such Spanish vessels, and likewise
 “ to all British vessels trading between the free
 “ ports in the said island of Jamaica and the Spa-
 “ nish colonies in America, under the regulations
 “ herein before prescribed.”

A perusal of these instructions will show the true value of what has been said in courts, and printed in pamphlets, about reducing the enemies of Britain by destroying the resources of their commerce, and about the injury done to her military and naval operations by the unjust and unlawful interference of those wicked neutrals. Go to the bottom of the business, and we find a mercantile struggle for money, in which the government assists by its power, its influence, and its negotiations. Mere counting-house politics. Not the most remote idea of injuring France or Spain, by inhibiting an intercourse with their colonies, but a scheme to engross that trade to themselves. Accordingly,

when they negotiate with us, the single object is to burthen and trammel our trade with such charges and regulations as may give their merchants a preference. Our negotiators have kindly gone along with theirs, and, in the excess of their complaisance, have ceded, not only the interests of trade, but the attributes of independence.

That nothing might be wanting to complete the goodly work, this eleventh article closes with a declaration, that, after the expiration of the treaty, (viz. in ten years) all antecedent rights on these subjects are to revive. And thus we acknowledge as rights, provided the exercise be suspended for ten years, claims which should never be admitted under any pressure of necessity. We may, nay, we must, submit to superior power; unless, as in our war for independence, it shall please the Almighty to smile on and reward our resistance of oppression by his holy favour. But there can be no necessity, use or advantage in acknowledging oppression to be justice. If we dare not resist, let us quietly submit. But let us not kiss the rod, or, like prisoners of the inquisition, applaud its clemency while we writhe in torture.

The twelfth article, considering the love of peace which our rulers profess, and the defenceless condition to which they have reduced us, passes all comprehension. It extends to Great-Britain, and to all other nations who will adopt the same regulation, the protection of our neutrality from a marine league to five miles from our shores. This being agreed on, if a Spanish cruizer should, at four miles dis-

hance, take a British ship, what are we to do? According to the treaty she must be restored. According to general practice she is a good prize: And if we may judge from experience, captors are more inclined to keep bad prizes than to surrender good ones. They would undoubtedly and justly refuse to give up the British ship. The British minister would as undoubtedly and as justly insist on the performance of our stipulation. What are we to do? Shall we go to war for the recovery of a British ship lawfully taken by a Spaniard, while we permit the same Spaniard, and every one else, unlawfully to take our own ships? Moreover, if the President should determine to take and restore the prize, what are his means? His frigates are fast in the mud. He has no public force at command, and it has been the undeviating policy of his administration not to have any, lest he should be held accountable for the use of it; or rather, for suffering it to look idly on, while our fellow citizens are insulted; plundered, killed. What are we to do? The British insist. The Spanish refuse. Take which side we will we must be in the wrong. The President might indeed make excuses and apologies. He is said to be able in that line. But the English are not in the habit of receiving apologies instead of cash. We should be charged with perfidy. We should be threatened with reprisals. What are we to do? Nothing remains but the old expedient of paying for peace. Congress must then appropriate to that object some of the money collected from trade; for they have no other. And thus our merchants, after being pil-

laged by both parties, must pay them for plundering each other.

The clause in the twenty-third article which declares, "that all treaties hereafter made by either
 "with any nation shall, *ipso facto*, be extended in
 "all their favourable operations to the other," is very broad. By the second article of our treaty with France, "the King and the United States mutually
 "engage not to grant any particular favour to other
 "nations, in respect of commerce and navigation,
 "which shall not immediately become common to
 "the other party, who shall enjoy the same freely
 "if the concession was freely made, or on allowing
 "the same compensation if the concession was con-
 "ditional." Our treaty with Sweden contains the same clause. The unlimited terms of this new stipulation, especially when compared with those more guarded of preceding compacts, will support a claim of Great-Britain to possess, without compensation, privileges we may grant to others for valuable consideration. To say the covenant is reciprocal is a falacy; for it is one thing to be reciprocal in form and words, but another to be reciprocal in fact and effect. If we mistake not, it is substantially the same as if we had stipulated solely and gratuitously, that Britain shall enjoy every privilege we may allow to any other nation. Indeed, our agreement with France and Sweden, though more fair, was not quite safe. Let it be remembered that old nations have long since formed their systems of finance, commerce and navigation; which, by the aid of experience, and in the lapse of time, have been made to accord with their

extent, population, soil, climate, productions and manufactures. There is, then, little probability that any change will be made, from which we can derive advantage. But the case with us is widely different. That our power and wealth must increase, if our union be preserved, and we are governed with tolerable discretion, can admit of no doubt. We shall probably both acquire and grant privileges in our diplomatic transactions. We ought not, therefore, to tie up our hands, by prospective conditions with any nation, and least of all with Great-Britain; because she has long since brought her commercial system to perfection. The covenant on her part must be sterile. We can derive nothing from it; but are bound by it to treat with the rest of the world under her pleasure, and for her benefit. We preclude ourselves from granting an exclusive privilege, whatever advantage might be gained or evil avoided. If the proposition be made, we must answer, it is not in our power; we are already bound to England, and must ask her permission.

The twenty-fourth article presents to us a fair flower of philosophy. We agree to join in abolishing the slave trade. As a comment on this article, we take leave to introduce what we consider as a contemporaneous exposition. In the British House of Commons, on the twenty-third of February, not two months after the treaty was signed, Lord Howick (the British minister of foreign affairs), after stating that the slave trade was both unjust and impolitic, founded in robbery, kidnapping and murder, and afforded incentives to the worst pas-

sions and crimes, and therefore ought to be abolished, added, that there were some general points that had been adduced in its support to which he was desirous of adverting. Amongst these was the argument which had been urged with earnestness, that the principle of the abolition of the trade would lead to emancipation. To this objection the minister frankly replied, that at present the negroes were not in a condition to be immediately emancipated; but he had no doubt, and would not conceal his opinion, that the effect of abolishing the trade would be to abolish slavery itself. We are not the advocates of slavery. We do not consider ourselves authorized to hold our fellow creatures in bondage. But we do not arrogate the right of judging others, nor presume to make our conscience a rule for theirs. We are bound by compact to our brethren in the Southern States, and cannot in good faith attempt to wrest from them what they consider as property, and without which their other property would be good for nothing. Nay, if we had lawful authority to emancipate the slaves south of Pennsylvania, we should, with the example of St. Domingo before our eyes, proceed with caution, and tremble with the apprehension, that, in remedying an evil we should let loose a legion of crimes. Europeans can speculate at their ease on events so distant as to appear more like history than action. It is otherwise with men on the spot, who see the rage of incarnate devils, and hear the shrieks of their victims. When statesmen of wisdom and experience speak the language of enthusiasm; when they who can resort to arms for a few seal-skins on

the other side the globe, are thrown into spasms of sensibility for the sufferings of negroes, who are dancing-all the while to the sound of their banjoes, there is reason to suspect something beside sentiment. If we take the trouble to examine facts, we shall find the British colonies full manned with Africans, while those of their rivals want hands. St. Domingo must, when subdued, be peopled anew. Moreover, if all these colonies were sunk in the sea, it would but enhance the value and increase the revenue of the British dominions in Asia. To abolish the slave trade, therefore, is good sound British policy. To bottom the measure in argument, on these efficient principles of interest, would not sound so well as to boast of philanthropy, and express the detestation of robbery and murder. But what motive ~~leave~~ we to make the above-mentioned compact, and what is to be its effect? Was each party, in the apprehension that his conscience would not keep him to his duty, desirous of bolstering up the moral sense with diplomatic engagements? Or was it intended to preclude debate in Parliament and in Congress? If domestic operation alone was intended, diplomatic engagements were neither necessary nor proper. The respective legislatures should have been left at liberty. If it was intended to form an alliance offensive and defensive against the slave trade, our ministers should have inquired a little into our means and situation. Are we, we the pacific, to commence a career of knight-errantry for black dulcineas? Are we, we who keep thousands in bondage, to declare that no one shall follow our

example? Truly it would seem as if we were doomed to fight for every thing except our own interest, our own rights, and our own honour.

We pass over the rest of what this treaty contains, to consider what it does not contain; previous to which, however, we must observe that, notwithstanding our willingness to excuse the administration, by imputing its defects to the gentlemen negotiators, we are deterred by a belief that such imputation would be unjust. If, indeed, those gentlemen had been recalled, we should be convinced the fault was theirs. But they are continued in office. The administration, therefore, consider them as still deserving of confidence. They have then conformed to their instructions, and the treaty is such as they were directed to make. Hence we are driven, in spite of ourselves, to conclude that what has been said is true—That the treaty was sent back, not from any disapprobation of its contents, but because it does not contain a relinquishment, by the King, of his claim to take British seamen from the merchant vessels of America. If it be true that our government have taken their stand on this ground, and for the reasons just assigned, this seems to be unquestionable, we are brought to a point which demands our serious consideration. If reason be against the British claim, let it be resisted; but if otherwise, God forbid we should engage in war to establish injustice.

The question is two-fold; whether England can rightfully compel her native subjects to man her fleets, and (if so) whether she can lawfully exercise that right over such of them as are in the ships of

another country. Let it be premised, that as they pretend no right to take a native American, that case is not within the scope of our inquiry. Let it also be premised, that when nations are agreed respecting matters of right, the way is open to expedients for mutual convenience. Matters of interest frequently interfere, and require appropriate arrangements by mutual concession, for mutual advantage. But matters of right are of different nature and sterner stuff. They cannot interfere, unless where nations are at war; because it cannot be right for one to prevent what another has a right to perform: Wherefore the right being established, submission is implied. Were it otherwise, war must be the natural condition of man; because the right to do on one side, and the right to oppose on the other, constitute precisely the state of war.

It is a first principle of every government, that it can rightfully command the military service of its citizens and subjects. If this be not admitted in America, we are in a wretched condition. We have no fleet; we have not, and it is to be hoped we never shall have, a standing army. If, therefore, the militia cannot be compelled to defend their country, what is to become of us?

But it is said that, admitting the general principle, an exception is to be made in favour of those who leave one State and swear allegiance to another. The British government, however, insists, that no man can divest himself of the duties which he owes to his country. Other nations maintain the same principle; which, both by reason and by general consent, forms a maxim of public law. The usual

stipulation in treaties, that the subjects or citizens of one of the contracting parties shall not engage in the military service of an enemy of the other, rests on this foundation, and would, without it, be an idle phrase. It is true that a different doctrine is maintained by some who pretend to instruct us in matters which concern our intellectual nature, our moral duties and political rights; matters which, having escaped the statesmen and sages of antiquity, have (as they say) been lately discovered. We, however, are not disposed to adopt novel doctrines, but presume that those who have gone before us, came into this world with as much sagacity as those lately born. And we know that many of them, with equal opportunities for reflection, had greater advantages of experience in national affairs. Putting aside, however, the objection of novelty, others present themselves to the most cursory observer, which it would be tedious to enumerate. Suppose that Arnold, after swearing allegiance to the King of Great-Britain, had returned to this country, and claimed the rights of a British subject. Surely there would have been but one sentiment, but one voice. Light minds may amuse themselves in blowing up the bubbles of metaphysical wit, but sober men will not stifle those chaste and righteous sentiments which bind them to their country. They will not permit rash innovators, "cloathed in a little brief authority," to abolish maxims venerable alike for their antiquity and wisdom. In a word, they will not relinquish the undoubted right of America to the military service of her citizens. If, however, it should be deemed proper that each

be at liberty to take advantage of the social compact while it suits his convenience, and to release himself from its obligations when called on to perform them, let it be so enacted. It will then be law for us ; but it will not thereby become law for other nations.

It may be said that man has a natural right to change his country and his allegiance. But it will be difficult to adduce proof that will not equally prove each individual to be above the law ; or what is tantamount, that each can, at his pleasure, release himself from its authority : whence it must follow, that the law, binding only those who choose to be bound, is a nullity ; a thing which not only does not exist, but which cannot exist. And after all, even if we should adopt that extravagant theory, the difficulty must remain : other nations will not dispute with us the doctrinal points we assume to govern or to amuse ourselves ; but they will not permit us, under cover of our doctrines, to invade their rights. It behoves us, therefore, before we carry such notions into practice, to inquire whether we are prepared to force them upon other nations ; for we must either embark in that extreme project, or acknowledge the rights which they exercise over their own subjects. So little, indeed, are the advocates for the supposed right of expatriation in harmony with themselves, that they have, on a different but notable occasion, strongly insisted that no one nation has a right to interfere in the domestic arrangements of another. We do not admit this axiom, in its fullest extent, because we conceive that when it is a domestic arrange-

ment of one nation to subjugate others, all have a right to interfere, on the common principle of self-preservation. But no man, we believe, ever claimed for England a right to determine what laws the French Republic should make or repeal respecting French citizens. Neither has it, as yet, been directly asserted that such power can be justly exercised over us by the French Republic. We conclude, therefore, it will not be pretended that we have such right over Britain. And if we have not, it must be admitted that an Englishman, coming to America, comes subject to the obligations imposed by the laws of his native country; which obligations are known, and of course excepted in the compact by which he becomes an American citizen. If this be admitted, and it can hardly be denied, the difficulty about certain papers given to seamen, and called protections, must vanish. The protection cannot avail against the prior right of his native country. Indeed, the facility with which it is obtained, in many of our sea-ports, is a sufficient reason why it should not be respected. It is frequently granted to men just arrived from the British dominions, whose language betrays the fraud; and who, when afterwards questioned by a British officer about the alleged place of their nativity, cannot tell whether it is to be found in New-England or Virginia. Surely it cannot be expected that a powerful nation, whose existence is staked on the chance of war, will be the dupe of such clumsy contrivance.

It has been already observed that a British subject cannot, according to the laws of that country, dis-

engage himself from the obligation to render military service; and that we cannot release him, because we cannot make or repeal the laws of England. To this it will be replied, that, having uncontrollable authority to legislate for ourselves, our act of naturalization, by conferring the right of citizenship, cancels anterior incompatible duties. And this being a case in which supreme authority has made contrariant provisions, the last must prevail. Certainly it must, if they who made it had a right to do what they are supposed to have done. Enough has already been said on the right. We shall only add here, that no question can arise while the party continues in America, because the British government cannot seize him within our territorial limits. Neither can a question arise if he should return home, because he would then be where we have no jurisdiction. But it may be asked, what will be the condition of an Englishman, naturalized here, who may have been brought by force within the power of his native country? Unquestionably it must be that which the law of England provides; for we cannot interfere, unless he was seized in our dominion.

Here, then, arises the second question, whether, admitting that England possesses the right she claims over her native subjects, it can properly be exercised in American ships. Those who hold the negative contend, that, taking a man from under the protection of our flag is a violation of our territory. It becomes proper, therefore, to inquire into the nature and extent of this protection. And here the first leading circumstance is the common right

to navigate the ocean, whereby all are there at home. It is by virtue of this right, that powers at war take property of their enemies in a neutral ship. The ocean belonging as much to the one as to the other, if the neutral says the capture was made in my dominion, the belligerent replies, it was made in mine: and the arguments to support one assertion establish both or neither. Until lately, it was not attempted to take enemy's goods in the territory of a neutral power; and it is worthy of remark, that this has been done by the nation which, for half a century, has urged the establishment of a maxim, that neutral ships shall protect enemy's goods. The conduct of Napoleon on this occasion is rather an example to be avoided, than a precedent to be pursued, and cannot strengthen the right of search. But it does not weaken that right. Let it, however, be remembered, that although it is usual to stop and search merchant ships, a similar practice towards public vessels of war is inadmissible. These are national fortresses, and bear (in the proper sense) the national flag. To such vessels alone, the idea of protection by the flag is applicable. The distinction between them and merchant ships is material to the present subject. Nations justly claim respect to their vessels of war, and from that claim corresponding duties arise. When any thing wrong is done by them, the national honour is bound to make satisfaction: but the case with merchant vessels is widely different; and the condition of sovereigns would be wretched and base if every trick and fraud of a smuggler could implicate their honour. Yet, if we insist on the same respect

to a private ship of trade as to a public ship of war, we must hold ourselves equally accountable for the conduct of both. Hence the universal consent, that merchant vessels may be examined, detained and confiscated, according to the nature of the case; and where they are injured, to compensate by money. For money being the object of trade, the national character is in no wise affected by what is done or suffered in the pursuit. Seeing, therefore, that a power at war has a right to take the ship and bring it into port, he must have a right to take his own subject out of the ship. It would be idle to suppose that a flag which cannot protect the ship itself, could protect the persons on board; or that it would be a violation of sovereignty to take part, when it is no violation to take the whole. But even if such distinction could be established, the matter would not be mended. If, for instance, Great-Britain should admit that one of our merchant vessels enjoys, while in the open sea, such an emanation of sovereignty, that, to take away one of the crew, would be tantamount to an invasion of our country; reserving, nevertheless, the established right by which the ship may, for adjudication of doubtful points, be sent into a British port: by exercising that right the ship could be brought within those limits where the exclusive territorial authority attaches. The suspected man would then, after examination, be regularly put on board a man of war, and nothing would, of course, be allowed for detaining the ship, and taking her out of her course. Hence it is evident, that, by abandoning the known principles and usage of nations,

we should involve ourselves in a labyrinth of difficulties for no good purpose and to considerable loss.

But it is said there is manifest absurdity in pretending that, because goods may be taken, and after due trial be confiscated, men may be taken and condemned without trial. It is monstrous to submit the dearest thing we have, our liberty, to the will of military men, who have an interest in taking it away. This argument is ingenious, but in our apprehension not solid. If British subjects only are impressed, it is none of our concern. Englishmen may do with each other what they please. If an American be impressed, it is probably from mistake, and he suffers a misfortune incident to his profession; being one of those evils, by reason whereof he is intitled to and receives extraordinary wages. We will not, however, elude the argument, but meet its full force. We say, then, that if the violence be intentional, and done by order of the sovereign, it is a legitimate cause of war, and ought so to be considered and treated. But if done by the officer, without the order of his government, it is one among the many wrongs, for redress of which resort must be had to the tribunals. The officer impressing does it at his peril, and the impressed seaman would, we believe, obtain ample compensation from a Westminster jury. We venture to add our opinion, that if a few clear cases of this sort had been prosecuted at the public expense, it would have done more to correct the practice, so far as real American citizens are concerned, than all the clamour of the last ten years.

At any rate, nothing can fairly be imputed to the sovereign, until his courts refuse to do justice. If an officer in our navy should assault and imprison a British subject, and application were made to our Secretary of State by the British Minister, would he not be referred for redress to our courts of justice? Surely the President would not on a complaint, though supported by *exparte* affidavits, break an American officer without trial.

To this it may be replied, and with much weight of argument, that although the officer is personally accountable to the injured individual, the government he serves is also accountable for repeated injuries, though done without its order; because in arming officers with power, and cloathing them with authority, it is a duty to provide against and prevent abuse. This we admit, and deduce from it the consequence that Britain, in exacting the military service of her subjects, ought to respect the rights of our citizens. Here, however, we must, in fairness, consider these circumstances which are inseparably connected with the question. Speaking as we do, the same language; our manners and customs also being the same; there is real difficulty in distinguishing a British from an American seamen, even when the officer acts with pure and upright intentions. Moreover, the very mode adopted to mark out our citizens has increased, instead of diminishing the difficulty. Seamen carelessly loose, or wantonly destroy, or fraudently dispose of their protections; so that while many, whose countenance and pronounciation declare them to be (what they really are) native Americans, have

no protections; their comrades from Scotland and Ireland, whose looks and language clearly designate their country, present their protections in proper form. On application, therefore, to the British government, and the consequent inquiries, facts frequently appear of such nature as might puzzle a discerning judge, much more a plain sea-officer.

Thus, by the peculiarity of its attending circumstances, the question is brought to a kind of dilemma; and, principles being acknowledged, it is contended, on our part, that Britain ought to forego a right which, from her own shewing, cannot be exercised without invading the rights of America—That she, being the actor, is bound to adopt regulations by which our citizens may be secured from violence. The case, considered in this aspect, is certainly strong. But to the proposition that she shall forego her right, she replies, that without supposing, much less asserting, that the United States contemplate the seduction of her seamen into their service, it is impossible not to see that such would be the result—That without regarding the loss of one country and gain of another from that event, a consequence far more important commands her attention—That she is at war with the most powerful monarch on earth, who threatens invasion and conquest—That she has but slender means of defence at land, and may (should the invasion take effect) be blotted from the list of nations—That, even if not subdued, she would be exposed to imminent peril and most grievous calamity—That her only defence, her fleet, can no longer be relied on if her present resources for manning it be destroyed.

Wherefore, the exercise of her right cannot be relinquished without hazarding her existence—That without insisting, as she might, on the interest we ourselves have in her success, and on the certainty that, if she is crushed by the weight of Napoleon's arms, we also must become French provinces, she can safely appeal to our reason and justice, to decide whether it is fair and right to place the convenience of one party on a line of equality with the existence of another. She declares her willingness to enter into any equitable arrangements to secure the rights of our citizens. But if no expedient can be devised which will produce the desired effect, she must exercise the right of self-preservation; though from circumstances not of her making nor under her controul, we are subjected by it to inconvenience and even to injury. In fine, that if we insist on her relinquishing her only means of defence, she must, though reluctantly, join in an appeal to the God of battles.

We have already observed, that when parties are agreed as to matter of right, the way is open to arrangements for mutual convenience. We now add our sincere belief, that men of integrity and good sense, who would candidly seek, would certainly find expedients to reconcile the exercise of her rights with the security of our citizens. We see, however, with much concern, that instead of endeavouring to remove, pains are taken to increase and multiply obstructions in the way of a fair and honest arrangement; and that, instead of simplifying the question, it is endeavoured, by the use of general terms and severe invectives, to persuade the

people of America that Great-Britain ought to relinquish a right on the exercise of which materially depends her national existence.

Hitherto we have discussed the question on principles of public law, and have not permitted any breath of interest to blow either way. Let it not, however, be forgotten, that our ships of war go freely into British ports, are hospitably received, and are suffered to depart without question, though manned in a great proportion by British subjects. Surely they have as good right to demand their seamen as we have to demand ours.

But it may be asked, if this be a true state of the question on the ground of right; and if it be doubtful on the ground of policy, whether we should strenuously insist on our right; whence came the clamour, and whence the cry of oppression? We do not conceive ourselves called on to account for so vain a thing as clamour. But, since the occasion is of portentous import, we will state the facts. We gain much, during the war, on trade which usually flows in other channels. Hence an extra demand for seamen, which America cannot supply; so that this lucrative commerce will be less extensive than our merchants desire, if they cannot procure seamen from other countries. Other neutrals are actuated by similar motives. We, however, speaking the same language, can have no want of British seamen, if, besides high wages and security from capture, we can protect them against impressment by British ships of war. Our merchants, therefore, have easily persuaded themselves to believe that a British seaman, with one of the pro-

tections above-mentioned in his pocket, ought not to be taken out of their ships. In this faith they clamoured. Some of them, whose moral and political notions are peculiarly agreeable to those who manage our affairs in the way they like best, have contrived to enlist the government in this scheme of traffic. But if, by contending on such bad ground, we are brought into war, our merchants will be the first to suffer. Such of them as have property must tremble at the consequence. The cry, however, will be kept up by those whose deranged affairs find an interest in confusion; and by the fiery spirits, who readily sacrifice their country to their ambition. But what will be our condition, if we walk on in this crooked path? We have advanced a claim, which, however the agents of those who wish to embroil us may pretend to approve, will be scouted by all the world: for the position we take is not only untenable in itself, but opposed to the interest of other nations. Nevertheless, to establish this claim, though without any chance of success, we shall perhaps be committed to a dangerous course of events. If Britain, struggling for life, be driven to desperation, she must strike. At the first blow our commerce is gone. She would be enriched with millions of our spoil, and we should, in a few months, acknowledge the rights which our rulers seem disposed to resist by the last extremities; for it is absurd to suppose the American people will bear the privations and hardships of war, to support a scheme of injustice.

One good consequence has, however, resulted from the notion assumed by our rulers. There is

too much reason to believe, that, if the usual course had been pursued with regard to the treaty, a constitutional majority of the Senate (from the confidence which they were chosen to exhibit in the President) would have given their ready approbation. That onerous contract would then have been fastened about our necks for ten years, and some of its evil consequences for ever. That we are not at this moment the commercial vassals of England is, therefore, in no small degree, to be attributed to the extravagant notion, that America is bound to protect every vagabond against the lawful authority of his own country. If, in the exercise of the British claim, or in any thing else, our sovereignty and independence are invaded, let no thought of consequences prevent us from asserting our honour. To preserve that is our first duty, our highest concern. With it we shall enjoy liberty, peace and commerce. Without it we shall enjoy nothing long; for a nation which loses her honour cannot preserve her independence. But we forbear to urge what we conceive to be unnecessary, when speaking to a high-minded people.

We entreat our fellow citizens to consider seriously the situation in which they stand—to suspend the rage of party strife—to examine facts—to reason for themselves. We put in no claim of merit. We solicit not their favour, much less their suffrage. Let them honour those whom it pleaseth them to honour. But let them not forego the use of their understanding. They may perhaps be told that we are enemies to the people. Be it so. Wise

men consider those as their friends who give them useful information. But, admitting us to be enemies, reason and truth, even in the mouth of an enemy, are still reason and truth. The people may believe of us what they please, and call us by whatever odious name their favourites may select or invent. All we ask of them is to show their friendship to themselves, by attending to what concerns themselves; instead of sitting still, their eyes closed, their ears shut, while they are bought and sold like miserable slaves.

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