

National Gazette.

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The following Letter has been transmitted by the Secretary of the Treasury to the Collectors of the different Ports in the United States.

CIRCULAR to the COLLECTORS of the CUSTOMS.

Philadelphia, August 4th, 1793.

SIR,

IT appearing that repeated contraventions of our neutrality have taken place in the ports of the United States, without having been discovered in time for prevention or remedy, I have it in command from the President, to address to the collectors of the respective districts a particular instruction on the subject.

It is expected, that the officers of the customs in each district, will in the course of their official functions have a vigilant eye upon whatever may be passing within the ports, harbours, creeks, inlets and waters of such district, of a nature to contravene the laws of neutrality, and upon discovery of any thing of the kind, will give immediate notice to the governor of the state, and to the attorney of the judicial district, comprehending the district of the customs within which any such contravention may happen.

To assist the judgment of the officers on this head, I transmit herewith a schedule of rules, concerning sundry particulars, which have been adopted by the President, as deductions from the laws of neutrality, established and received among nations. Whatever shall be contrary to these rules will, of course, be to be notified, as above-mentioned.

There are some other points, which, pursuant to our treaties and the determinations of the executive, I ought to notice to you.

If any vessel of either of the powers at war with France should bring or send within your district a prize made of the subjects, people or property of France, it is immediately to be notified to the governor of the state, in order that measures may be taken, pursuant to the 17th article of our treaty with France, to oblige such vessel and her prize, or such prize when sent in without the capturing vessel, to depart.

No privateer of any of the powers at war with France, coming within a district of the United States, can, by the twenty-second article of our treaty with France, enjoy any other privilege than that of purchasing such victuals as shall be necessary for her going to the next port of the prince or state from which she has her commission. If she should do any thing beside this, it is immediately to be reported to the governor and the attorney of the district. You will observe by the rules transmitted, that the term privateer is understood not to extend to vessels armed for merchandize and war, commonly called with us *letters of marque*, nor, of course, to vessels of war in the immediate service of the government of either of the powers at war.

No armed vessel which has been or shall be originally fitted out in any port of the United States by either of the parties at war is henceforth to have asylum in any district of the United States. If any such armed vessel shall appear within your district, she is immediately to be notified to the governor and attorney of the district; which is also to be done, in respect to any prize, that such vessel shall bring or send in. At foot is a list of such armed vessels of the above description as have hitherto come to the knowledge of the executive.

The purchasing within, and exporting from, the United States, by way of merchandize, articles commonly called contraband (being generally, warlike instruments and military stores) is free to all the parties at war, and is not to be interfered with. If our own citizens undertake to carry them to any of those parties, they will be abandoned to the penalties which the laws of war authorize.

You will be particularly careful to observe, and to notify as directed in other instances, the case of any citizen of the United States, who shall be found in the service of either of the parties at war.

In case any vessel shall be found in the act of contravening any of the rules or principles which are the ground of this instruction, she is to be refused a clearance until she shall have complied with what the governor shall have decided in reference to her. Care, however, is to be taken in this, not unnecessarily or unreasonably to embarrass trade or to vex any of the parties concerned.

In order that contraventions may be better ascertained, it is desired that the offi-

cer who shall first go on board any vessel arriving within your district shall make an accurate survey of her then condition, as to military equipment, to be forthwith reported to you, and that prior to her clearance a like survey be made, that any transgression of the rules laid down may be ascertained.

But as the propriety of any such inspection of a vessel of war in the immediate service of the government of a foreign nation is not without question in reference to the usage of nations, no attempt is to be made to inspect any such vessel till further order on the point.

The President desires me to signify to you his most particular expectation that the instruction contained in this letter will be executed with the greatest vigilance, activity, care and impartiality. Omissions will tend to expose the government to injurious imputations and suspicions, and proportionably to commit the good faith and peace of the country; objects of too much importance not to engage every proper exertion of your zeal.

With consideration, I am, Sir,
Your obedient servant,

RULES adopted by the President of the United States.

I. The original arming and equipping of vessels in the ports of the United States, by any of the belligerent parties, for military service, offensive or defensive, is deemed unlawful.

II. Equipments of merchant vessels by either of the belligerent parties, in the ports of the United States, purely for the accommodation of them, as such, is deemed lawful.

III. Equipments in the ports of the United States of vessels of war in the immediate service of the government of any of the belligerent parties, which if done to other vessels would be of a doubtful nature as being applicable either to commerce or war, are deemed lawful; except those which shall have made prize of the subjects, people or property of France, coming with their prizes into the ports of the United States, pursuant to the seventeenth article of our treaty of amity and commerce with France.

IV. Equipments in the ports of the United States, by any of the parties at war with France, of vessels fitted for merchandize and war whether with or without commissions, which are doubtful in their nature, as being applicable either to commerce or war, are deemed lawful; except those which shall have made prize of the subjects, people or property of France, coming with their prizes into the ports of the United States, pursuant to the seventeenth article of our treaty of amity and commerce with France.

V. Equipments of any of the vessels of France, in the ports of the United States, which are doubtful in their nature, as being applicable to commerce or war, are deemed lawful.

VI. Equipments of every kind in the ports of the United States, of privateers of the powers at war with France, are deemed lawful.

VII. Equipments of vessels in the ports of the United States, which are of a nature solely adapted to war, are deemed unlawful; except those stranded or wrecked, as mentioned in the eighteenth article of our treaty with France, the sixteenth of our treaty with the United Netherlands, the ninth of our treaty with Prussia; and except those mentioned in the nineteenth article of our treaty with France, the seventeenth of our treaty with the United Netherlands, the eighteenth of our treaty with Prussia.

VIII. Vessels of either of the parties not armed, or armed previous to their coming into the ports of the United States which shall not have infringed any of the foregoing rules, may lawfully engage or enlist therein their own subjects or citizens, not being inhabitants of the U. States; except privateers of the powers at war with France, and except those vessels which shall have made prize of the subjects, people or property of France, coming with their prizes into the ports of the United States, pursuant to the seventeenth article of our treaty of amity and commerce with France.

[Here follows a list of privateers.]

From the (Boston) Independent Chronicle. WAIVING the observations of PACIFICUS, which appear the effusion of an avowed enemy to the French republic, and treating on subjects which the generosity

of France renders totally unnecessary at present to agitate, the great question now before the public is, 'Whether by the treaty between the United States and France, the latter have a right to fit out ships in our ports?' To determine this question, it is necessary to hand to 'THE PEOPLE' the articles on this point, from the Dutch and French treaties.

By the 28th article of the treaty with the Dutch, it is expressly declared, 'That the commanders of vessels belonging to the United Netherlands (and so reciprocally) have a right to take freely into their service into any port or place, under the obedience of the United States, seamen or other natives or inhabitants of any country of the denomination of the States-General.

To determine, whether the French have the same right, the second article of their treaty expressly mentions; 'That no particular favours shall be granted to other nations, which shall not immediately become common to them.'

There is no occasion to comment on these two articles, as it is evident, that a French captain has a right to receive on board of his vessel, French citizens residing in any port or place in America.

The foregoing principles being established, the main question now to be ascertained is, 'Whether the French have a right to fit out their privateers in our ports?'

This decision rests on the construction put on the 22d article, viz.

ART. XXII. It shall not be lawful for any foreign privateers, not belonging to subjects of the most christian king, nor citizens of the said United States, who have commissions from any other Prince or State in enmity with either nation, to fit their ships in the ports either of the one or the other of the aforesaid parties, to sell what they have taken, or in any other manner whatsoever to exchange their ships, merchandizes, or any other lading; neither shall they be allowed even to purchase victuals, except such as shall be necessary for their going to the next port of that Prince or State from which they have commissions.'

In support of this article, it is alledged, that this prohibition against fitting the ships or privateers belonging to any other European nation, implies a permission to fit out the privateers belonging to France.

But in this conclusion we have to combat the opinion of one of the Judges of the Supreme Court. * He asserts, 'that this inference cannot be justly drawn.'

When a private citizen has to contend with an authority so respectable, it obliges him to tread the ground of controversy with caution. But notwithstanding the station of his opponent, and the authority of his decision, yet it is presumed that the Freeman of these States, feel that degree of independence as to dispute the intallibility of opinions, however sanctioned by office.

In all controversial matters, it is best to reduce the principles of investigation to the most simple state possible, that we may not lose the object in sophistical explanations, or logical definitions. I would then ask, whether it can be rationally supposed that either the French nation or the United States, meant, at the time the treaty was signed, any equivocation, prevarication or mental reservation, in the explanation of this 22d article? If they did not, what is the most simple or natural idea connected with the words of this article? Let a thousand unbiassed, impartial men read it, and I dare venture to assert, that nine hundred and ninety nine would at once conclude that the *negative*, as it respects other nations, was the most positive declaration, as it applied to France and the United States, that words could convey.

It is proper to remark, that at the time the treaty was signed, these two nations were in the most cordial intimacy and friendship. All these negotiations were founded and prosecuted on these benevolent principles. Thus circumstanced, they found it congenial to their mutual interest, to knit themselves in the firmest bond of union, to guard themselves against the other powers; and all the privileges that were denied to others, it is probable were *bona fide* conceded as bestowed on each other.

The treaty was strictly that of amity, commerce and partial benefits. The parties did not then feel as some now do, a separate interest. They did not apprehend

* Judge Wilson—

we should have influential citizens, who would endeavour by sophistry, to destroy the avowed principles and objects of the treaty. France supposed that a construction as liberal as that contemplated by FRANKLIN or LEE, would ever influence the minds of Americans in all their decisions; and generously concluded that nothing farther was necessary to determine the intentions and designs of the contracting parties, than an express prohibition as it respected the other powers of Europe. I have only to revert to the feelings of that day, for a proof of my observation.

The principle which was generally prevailing at the time of our adopting the Federal constitution, 'That what was not expressly given up, was retained, operated with the most extensive liberality on the minds of the contracting parties, and guided them in their deliberations.

Feeling a regard for the honor of my country, I cannot without emotions of regret, read the following sentiments; as they may serve to place the United States in a very disagreeable point of view in the eyes of the citizens of France. The words alluded to, are, 'It may be alledged that this prohibition against fitting the ships of privateers belonging to any other nation, implies a permission to fit the ships of privateers belonging to France.—But the inference cannot be justly drawn. If by a promise made to one person, I refrain myself from lending money to any other; I am not surely by that restraining engagement obliged to lend my money to him.' This kind of reasoning might appear with a tolerable degree of grace, in the common parlance between two lawyers, engaged by a fee to support their different pleas.—But as a nation, declaring their sentiments on a question of the highest import, as it respects the most sacred of all national obligations, can we accede without some hesitation, to this sophistical explanation? Or can we suppose, that the patriots of France, whose souls are fired with the cause of freedom, and the rights of man, will cordially respond to this decision? Can any national faith be founded on a more slender basis than that of America, if such arguments are admitted by 'the People' as conclusive and valid?

The negative, as was before observed, as it respects other nations, is the most positive declaration that could be made in favour of France. This article stands much stronger than if it had been expressly said, 'That the French privateers should have a right to fit out their vessels in America.' Had it stood thus, upon the principle of equivocation now adopted, it might have been urged, that though the French were expressly permitted, yet it did not imply, but what other nations might be allowed the same indulgence.—For when sophistry is practised, as the weapon of controversy, words however arranged, or sentiments however expressed, will ever fall a sacrifice in the combat.

Waiving every subterfuge of this nature, and taking the spirit of the article on those principles which we have every reason to suppose operated at the moment on the minds of the contracting parties, it must be acknowledged that it stands on the most impregnable ground possible.—'It shall not be lawful, &c. are expressions, which according to all the principles and design of language, convey a conclusive idea, that they, (the French) and they only, shall have this right.

As a further proof that this was the intention of the parties, our Ambassadors, previous to the acknowledgment of our independence, gave commissions to privateers, and they were permitted to arm and man them in France.

How far the explanation of the treaty, by the learned Judge, corresponds with other sentiments advanced in his speech, let the public determine. He says, 'To love and to deserve an honest fame, is the duty of a state, as well as of a man.—To a State, as to a man, a reputation is valuable.—It repels hostilities and secures esteem.—In transactions with other nations, the dignity of a state should never be permitted to suffer the smallest diminution.'

These are sentiments worthy to be wrote in letters of gold. Placing then the United States in the situation of an individual, I ask, provided one man was to enter into an agreement with another, upon the avowed principles of amity, and it was expressly declared, that no other person was to receive certain specified advantages, whether upon the common acceptance of words, and taking their peculiar circumstances into consideration at the time the