Eastern Shore REPUBLICAN STAR OR General Advertiser.

EASTON—(MARYLAND) Printed and Published every *Tuesday Morning*, by THOMAS PERRIN SMITH, Printer of the LAWS of the UNITED STATES.

[VOL. 7....10.] TUESDAY MORNING, NOVEMBER 29, 1808. [NO. 13....481.]

TERMS *of the REPUBLICAN STAR* ARE TWO DOLLARS AND FIFTY CENTS per annum, payable half yearly IN ADVANCE: No paper can be discontinued until the same is paid for.

ADVERTISEMENTS, ARE inserted *three weeks* for ONE DOLLAR, and continued *weekly*, for TWENTY-FIVE CENTS per square.

DOCUMENTS

ACCOMPANYING THE PRESIDENT'S MESSAGE, OF NOV. 8, 1808.

(Continued)

Extract of a letter from Mr. Madison to Gen. Armstrong.

DEPARTMENT OF STATE, *May 2d*, 1808.

"Since my last, of which lieutenant Lewis was the bearer, I have received your several letters of the 27th December, 22d January, 15th and 17th February, with their respective inclosures.

"That of the 15th January, from Mr. Champagny to you, has, as you will see by the papers herewith sent, produced all the sensations here, which the spirit and stile of it were calculated to excite in minds alive to the interests and honor of the nation. To present to the United States, the alternative of bending to the views of France against her enemy, or of incurring a confiscation of all the property of their citizens carried into the French prize courts, implied that they were susceptible of impressions by which no independent and honorable nation can be guided; and to prejudge and pronounce for them the effect which the conduct of another nation ought to have on their councils and course of proceeding, had the air at least of an assumed authority, not less irritating to the public feelings. In these lights, the president makes it your duty to present to the French government the contents of Mr. Champagny's letter, taking care, as your discretion will doubtless suggest, that whilst you make that government sensible of the offensive tone employed, you leave the way open for friendly and respectful explanations, if there be a disposition to offer them, and for a decision here on any reply which may be of a different character."

"Congress closed their session on the 25th ultimo. For a general view of their proceedings, I refer to the series of newspapers heretofore, and now forwarded, and to other prints which are added.—Among their acts of chief importance is that which vests in the president an authority to suspend in whole or in part the embargo laws.

"The conditions on which the suspending authority is to be exercised will engage your particular attention. They appeal equally to the justice and the policy of the two great belligerent powers now emulating each other in violations of both. The president counts on your best endeavors to give to this appeal all the effect possible with the French government. Mr. Pinkney will be doing the same with that of Great Britain. The relation in which a recall of its retaliating decrees, by either power, will place the United States to the other, is obvious, and ought to be a motive to the measure, proportioned to the desire which has been manifested by each, to produce collisions between the United States and its adversary, and which must be equally felt by each to avoid one with itself.

"Should wiser councils or increasing distresses induce Great Britain to revoke her impolitic orders against neutral commerce, and thereby prepare the way for a removal of the embargo, as it applies to her, France could not persist in the illegal part of her decrees, if she does not mean to force a contest with the United States. On the other hand, should she set the example of revocation, Great Britain would be obliged, either by following it, to restore to France the full benefit of neutral trade, which she needs; or by persevering in her obnoxious orders, after the pretext for them had ceased, to render collisions with the United States inevitable.

"In every point of view, therefore, it is so clearly the sound policy of France to rescind so much at least of her decrees as tresspass on neutral rights, and particularly to be the first in taking the retrogade step, that it cannot be unreasonable to expect that it will be immediately taken."

"In whatever degree the French government may be led to change its system, you will lose no time in transmitting the information to this department, and to Mr. Pinkney; and by hired conveyance, if necessary. A correspondent instruction is given to Mr. Pinkney.

"It is of the greater importance, that you should receive from each other the earliest notice of any relaxations, as each government is under a pledge to follow such an example by the other. And it is not of less importance that the president or congress should be acquainted with the facts, that the proceedings here may be accommodated to them.

"That you may know the grounds on which the British orders of November have been arraignd by this government, I enclose a copy of the answer to Mr. Erskine's note communicating them, a copy of the note being also inclosed.

"The other documents communicated, will put you in full possession of the relations of the United States with Britain, as resulting from the issue of our general negociations, and from that of the mission of Mr. Rose.

"This dispatch is forwarded by Mr. Baker, who takes his passage from Baltimore, in a vessel engaged, as was the Osage which sailed from New-York, for special purpose of public and mercantile correspondences with Europe. She will proceed in the first instance, to L'Orient, where she will leave Mr. Baker, and thence proceed with dispatches for Mr. Pinkney, to Falmouth, where she will remain a few days to receive communications from him; she will then return to L'Orient, in order to bring back Mr. Baker with your communications."

Mr. Madison to Gen. Armstrong.

DEPARTMENT OF STATE, July 21, 1808.

Sir—Herewith you will receive a copy of the papers relating to one of the vessels which were destroyed at sea by the French frigates, returning from the West Indies. I observe that, in your letter to Champagny, of the 2d of April, you have incidentally noticed this occurrence. If ample reparation should not have been made to the sufferers, the President thinks it proper that, as their cases become authenticated, you should present them in terms which may awaken the French government to the nature of the injury and the demands of justice.

The burning of neutral vessels detained on the high seas, is the most distressing of all the modes by which belligerents exert force contrary to right; and in proportion as it is destitute of apology, ought at least to be the promptitude and amplitude of the redress. If it be contended that the destruction, in these cases, proceeded solely from the danger that otherwise intelligence might reach a pursuing or hovering force, it may be answered that if such a plea were of greater avail, it would only disprove a hostility of intention, without diminishing the obligation to indemnify, on the most liberal scale, the injured individuals. It may be added, that if the outrage on the individuals was not meant as hostility towards their nation, the latter might justly expect a tender of such explanations as would leave no doubt on this subject.

I have the honor to be, &c.

(Signed) JAMES MADISON.

Gen. Armstrong, Minister Plen. of the U. S. Paris.

Extract of a letter from Mr. Madison to Gen. Armstrong.

DEPARTMENT OF STATE. July 22, 1808.

"Your dispatches by lieut. Lewis were delivered on the 5th inst.

"It is regretted that the interval between his arrival and the date of your letter to Mr. Champagny, during which, I presume, some verbal inter-communication must have taken place, had produced no indication of a favorable change in the views of the French government with respect to its decrees; and still more, that instead of an early and favorable answer to your letter, it should have been followed by such a decree as is reported to have been issued on 22d April, at Bayonne. The decree has not yet reached the United States, and therefore, its precise import cannot be ascertained. But if it should be, as it is represented, a sweeping stroke at all American vessels on the high seas, it will not only extend our demands of reparation, but is rendered the more ominous with respect to the temper and views of the emperor towards the U. States by the date of the measure.

"The arrival of Mr. Baker with my letter of May 2d, of which a copy is herewith sent, will have enabled you to resume the subject of the decrees with the fairest opportunity that could be given to the French government for a change of the unjust and unwise course which has been pursued; and I assure myself that you will not have failed to turn the communications with which you are furnished to the best account. If France does not wish to throw the United States into the war against her, for which it is impossible to find a rational or plausible inducement, she ought not to hesitate a moment in revoking at least so much of her decrees as violate the rights of the sea, and furnish to her adversary the pretext for his retaliating measure. It would seem as if the imperial cabinet had never paid sufficient attention to the smallness of the sacrifice which a repeal of that portion of its system would involve, if an act of justice is to be called a sacrifice.

"The information by the return of the Osage from England is not more satisfactory than that from France. Nothing was said on the subject of the Chesapeake, nor any thing done or promised, as to the orders in council. It is probable that further accounts from the U. States were waited for, and that the arrival of the St. Michael will have led to a manifestation of the real views of that government on other subjects. In the mean time it cannot be doubted, that hopes were cherished there of some events in this country favorable to the policy of the orders, and particularly, that the offensive language and proceedings of France would bring on a hostile resistance from the U. States; in which case the British government would be able to mould every thing to its satisfaction. There is much reason to believe that if the British government should not concur in a mutual abolition of the orders and of the embargo, it will result from an unwillingness to set an example which might consequently put an end to the irritating career of her enemy, on which the calculation is built.—Might not use be made of this view of the matter, in those frank and friendly conversations which sometimes best admit topics of a delicate nature, and in which pride and prejudice can be best managed without decending from the necessary level? In every view it is evidently proper as far as respect to the national honor will allow, to avoid a stile of procedure which might co-operate with the British government by stimulating the passions of the French."

Copies and extracts of letters from general Armstrong to the Secretary of State, with copies of their enclosures.

General Armstrong to Mr. Madison. (Duplicate)

PARIS, Nov. 12, 1807.

SIR,

It was not till yesterday that I received from Mr. Skipwith a copy of the decree of the council of prizes in the case of the Horizon. This is the first unfriendly decision of that body, under the arrete of the 21st of Nov. 1806. In this case, and on the petition of the defendant, *the court* has recommended the restitution of the *whole* cargo. I did not however think proper to join in asking as a favor, what I believe myself entitled to as a right. I subjoin a copy of my note to the minister of foreign affairs; and am, sir, &c. &c. JOHN ARMSTRONG.

Note of General Armstrong.

"In the former copy, nearly a page of his letter was omitted by the copier."

The same to Mr. Champagny.

PARIS, Nov. 12, 1808.

SIR,

The document to which these observations are prefixed, will inform your excellency that an American ship, trading under the protection of the laws of nations, and of particular treaties, and suffering ship wreck on the coast of France, has recently been seized by his majesty's officers, and adjudged by his council of prizes as follows, viz:

"Our council puts at liberty the American vessel the Horizon ship wrecked the 30th of May last, near Morlaix, and consequently orders, that the amount arising from the sale legally made of the wreck of the said vessel, together with the merchandize of the cargo, which, according to an estimate made in the presence of the overseers of the administrations of marine and custom house, shall have been acknowledged not to have proceeded from English manufactures, nor from English territory, shall be restored to Captain Maclure, without deducting any other expences than those relative to the sale.

"And with regard to the other merchandize of the cargo, which, from the result of the said estimate shall be acknowledged to come from manufactures or English territory, by virtue of the 5th article of the decree of the 1st November, 1806, they shall be confiscated for the use of the state; the whole to be sold by the forms prescribed in the regulations; and the application of the product to be made in conformity to the arrangements of the said decree, deduction being made of the expence of saving the goods, and that of the support of the crew, until the day that the captain shall receive the notification of the present decision."

The reasons upon which this decision is founded, are at once so new and alarming to the present friendly relations of the two powers, that I cannot but discuss them with a freedom in some degree proportioned to my sense of their novelty and importance.

"Considering" says the council, 1. "that the neutrality of the ship and cargo were sufficiently established, the whole ought to be restored, (agreeably to the provisions of the convention of the 30th September, 1800) provided no merchandize of English origin had been found in her, and of course that she had not been brought within the limits of the imperial decree of the 21st November, 1806."

Here is an open and unqualified admission, that the ship was found within the rules prescribed by the convention of 1800; that according to these rules, her cargo and herself ought to have been restored, and that such would have been the fact, but for the operation of the decree of the 21st November, 1806.

In the letter your excellency did me the honor to write to me on the 7th of October last, you thought it "easy to reconcile the obligations of this decree with the preservation of those arising from treaties." It was not for me to examine the means by which this reconciliation could be effected; they no doubt fully existed and yet exist in his majesty's good pleasure; and taking for granted this fact I saw in the opinion nothing but proofs, of friendly dispositions and pledges that these were not to be either wantonly destroyed or diminished. How inauspicious, however, to its authority and the consultations derived from it, is this recent act of the council of prizes! An act, which explicitly acknowledges the opposite characters and conflicting injunctions of these two instrumenes, and which of course draws after it considerations the most serious to the government of the United States.

The second reason of the council is "that the decree declaring (British) merchandize good prize had principally in view captures made on the high seas; but that the question, whether shipwrecked goods ought to be restored or confiscated, having always been judged under the 14th article of the regulation of the 26th of July, 1778, and according to their character (which might have rendered lawful or have even commended their seizure at sea) there is no reason to introduce in this case any new distinction which however philanthropic it may appear, has not as yet been adopted as a rule by any maritime nation."

The doctrine resisted [in] this passage, and which inculcates the duty of extending protection to the unfortunate, is not new to his majesty's council of prizes. They have themselves consecrated it by their decision of the 5th of March, 1800. By that decision they restored an enemy's ship (the Diane) on the *single reason*, that "*she had been compelled to enter a French port by stress of weather*." "I should certainly fail" says the Attorney General "in respect to myself and to the council before whom I have the honor to represent the government, *were I not to maintain a principle consecrated by our laws and by those of all nations.* In all circumstances let the loyalty of the French government serve as the basis of your decisions. Prove yourselves at once generous and just. Your enemies will know and respect your magnanimity." Such was the principle adopted by the council in the year 1800, and in the case of an enemy's ship; yet we are now told, that this very principle, so honorable to the court, to the nation, and to human nature, is utterly unknown to all maritime people. And on what occasion do we hear this? When an enemy's ship is again thrown on the French coast?—No; it has been reserved for the wreck of a neutral and friendly vessel! For a ship of the United States! It is not denied that had this ship escaped the rocks and made the port of Morlaix, the only inhospitality to which she would have been exposed (under the most rigorous interpretation of the law in question) would have been that of being ordered again to sea. Has then the misfortune of shipwreck so far altered her condition, as to expose her to the injury of confiscation also? And is this among the principles which the defender of the maritime rights means to consecrate by his power and wisdom? It is impossible.

The third reason of the council is "that the application of the 5th article aforesaid, in as far as it concerns the American and other nations, is the result both of the general expressions of that very article, and of the communication recently made by his excellency the grand judge concerning the primitive intention of the sovereign.

This reason will be found to be substantially answered in my reply to reason No. 5 of the council. It will be seen that the opinion given here that "the application of article 5 of the imperial decree to American commerce, is the result of the general expressions of that very article" was not the opinion of the council on the 5th of March last, when they judged the case of the Hibernia; they then declared *in totidemverbis* that the decree "said nothing of its own influence on the convention of 1800," between the United States and France.

The fourth reason of the council is "that the expedition in question having certainly been made with full knowledge of the said decree, no objection can be drawn with any propriety, from the general rules forbidding a retrospective action, nor even in this particular case, from the posterior date of the act in which the sovereign decides the question, since the act sprung from his supreme wisdom, not as an interpretation of a doubtful point, but as a declaration of an anterior and positive disposition."

A distinction is here attempted to be taken between the interpretation of a doubtful point and the declaration of an anterior and positive rule. This distinction cannot be maintained; for if the rule had been positive, there would have been no occasion for the declaration. Neither the minister of marine, nor the council of prizes could have had any doubts on the subject; the execution of the decree would have been prompt and peremptory; nor would *a second* act on the part of his majesty, after the lapse of 12 months, have been necessary to give operation to the *first*. Need I appeal to your Excellency's memory for the facts on which these remarks turn? You know that doubts did exist—you know that there was, under them, *much hesitation* in pronouncing. You know that as late as the 9th of August I sought an explanation of the decree in question, and that even then, your Excellency (who was surely a competent and legitimate organ of his majesty) did not think yourself prepared to give it: the conclusion is inevitable: his majesty's answer, transmitted to the court of prizes on the 18th of September last, through the medium of the grand judge, was in the nature of an *interpretation*, and being so could not, without possessing a retroactive quality, apply to events many months anterior in date to itself.

The fifth reason of the council and the last which enters into my present view of the subject is "that though one of the principal agents of his majesty had given a contrary opinion, of *which the council had at no period* partaken, this opinion, being that of *an individual*, could not (whatever consideration its author may merit) balance the formal declaration given in the name of his majesty himself; and that, if the communication of this opinion had, as is alleged, given room to and served as a basis for many American shipments, and particularly of the one in question, this circumstance which may call for the indulgence of his majesty, in a case in which the confiscation is entirely to the advantage of the state, does not prevent a council rigid in its duty, to pronounce in conformity to the decree of the 21st of November, and of the declaration which follows it."

It would appear from this paragraph that not finding it easy to untie the knot, the council had determined to cut it.—Pressed by the fact that an interpretation of the decree had been given by a minister of his majesty, specially charged with its execution they would now escape from this fact and from the conclusions to which it evidently leads, by alleging—

(Continued in last page.)