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Correspondence relative to the Negotiation

at Madrid. 1804 & 1805.

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To Mr Talleyrand

Sir Paris November 8th 1804

Before the conclusion of the late Treaty between the United States and France, Your Excellency will recollect, that it was an object with the President, to acquire of Spain by amicable arrangement, Florida, it being that portion of her Territory which she held eastward of the Mississippi. It was also his object after the conclusion of that Treaty, not that it was prosecd by such imperious considerations as before, but, that as it would contribute to remove all cause of uneasiness and jealousy between the two Powers, they might adopt, and harmonise in future, in such a system of policy, as might secure to them peace, and give additional protection to their possessions in that quarter, especially to those of Spain. In the conferences which produced the Treaty above mentioned, the good offices of his Imperial Majesty were engaged to the United States, in any negotiation which the President might commence with the Catholic King for the acquisition of Florida. The same assurance was renewed after the conclusion of the Treaty, though it was intimated that, that was not a suitable time for the commencement of such a negotiation. It was on that ultimatum as your Excellency will also recollect, at a moment when I was about to set out for Spain in pursuit of the object, the then recent orders of the President permitting it, that I postponed my journey thither, and took a different position. The proposed negotiation with Spain was in consequence, and has since remained suspended, and it is in obedience to late orders from my Government, that I am now as far on my way to Madrid, on that subject; and that Mr Livingstone has requested the good offices of the Emperor in support of it. It is proper here to remark that since the epoch referred to, the treaty then just concluded between the U States and France has been carried into effect, in its great points, with that scrupulous attention to good faith, which does to both parties

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the highest honor. This conduct in that transaction gives to each a pledge for the integrity which is to prevail in their future intercourse. I may be permitted to add, that as I declined my visit to Spain at that epoch the more readily, to give an opportunity for the complete execution of that Treaty, so now that it is carried into effect, I undertake it with the greater pleasure, as it confirms me in the confidence before entertained, of the support which would be given in it by his Imperial majesty.

The President has been induced to adopt this measure at this time by considerations the most urgent. As these are inseparably connected with the proposed negotiation, indeed form in part the object of it, it is due to the friendship subsisting between our Governments, and to the candor which the President will never fail to observe in his transactions with the Emperor, to give you a distinct idea of them. They will I doubt not satisfy you, that the President has heretofore shewn a sincere desire to cultivate the friendship of the Catholic King, and that the attempt which he now makes to preserve that relation is a new and signal proof of that disposition.

Since the Treaty between the United States and France whereby Louisiana was ceded to the former, a question has arisen between those States and Spain relative to the boundaries of the ceded Territory. It is understood that the Govt of Spain entertains an idea that that cession comprises only that portion of Louisiana which was ceded to it by France in 1762: that it does not comprise that portion also which was ceded by her at the same time to Gt Britain, distinguished while in her possession, by the name of West Florida. This pretension of the Court of Spain, cannot, it is presumed, be supported by even the color of an argument. Had that been the intention of the parties in the treaty of St Ildefonso, it would have been easy to have provided for it. The idea was a simple one, which a few plain words would have expressed. But the language

guage of the Article refered to, conveys a very different sentiment We find in it nothing which countenances a presumption that the Emperor meant to retake from Spain only a portion of Louisiana, or to refer to it as a dismembered State. It was natural to suppose, in accepting a retrocession of that Province from a power possessed of the whole, that he would take it entire, such as it was when France possessed it. Accordingly we find that the terms of the article making that cession are as full and explicit to that object, as it was possible to use. It is not stipulated that Spain should cede to France that portion of Louisiana only which she had received from France; or that West Florida should be exempted from the cession. It is, on the contrary, stipulated that she shall cede it, "such as it was when France possessed it", that is, such as it was before it was dismembered by the cessions afterwards made to Spain and Great Britain; that she should cede it "with the same extent that it now has in the hands of Spain". that is entire, which it became by the Treaty of 1783, whereby West Florida was ceded by Great Britain to Spain: "such as it is, according to subsequent treaties between Spain and other powers" a stipulation which does honor to his Catholic majesty, since it proves that in making the cession to France, he intended to cede only what he had a right to cede: that he recollected the Treaty which he had concluded with the U. States in the year 1795. knew the extent of its obligations, and was resolved to execute them with good faith. Your Excellency will receive within, a paper containing an examination of the boundaries of Louisiana, which, it is presumed, proves incontestably the doctrine above advanced, as also that the river Perdido is the ancient and of course present boundary of that province to the east, and the Rio Bravo to the west.

The U. States have other causes of complaint against Spain of a serious import. In the course of the last war many aggressions were committed under the authority of the

the Govt of Spain, but as it is presumed, without its sanction, on the commerce of the U States. Her Ships of War and privateers took many of their vessels in Europe and America, carried them into her ports, detained and condemned them under pretexts which cannot be justified. The injury sustained by this proceeding was great and extensive, for which it is the duty of the President to obtain for the sufferers an adequate reparation. A convention was entered into at Madrid about two years since, between the two powers, which provided a partial remedy for these injuries. The great object however was left open for future arrangement. It was owing to that consideration, and to a knowledge that the principal cause of variance was unprovided for; that the negotiation was in truth unfinished, that neither Govt took an interest in ratifying or executing that convention. The whole subject therefore now lies open for discussion, and it is very much desired to conclude it on such fair principles, as may be satisfactory to His Catholic Majesty, while it enables the President to vindicate the character of his Administration, in obtaining for american claimants the justice to which they are entitled.

The occlusion of the River Mississippi about two years ago, contrary not only to the Spirit but the express stipulation of the Treaty of 1795, between the U States and Spain, was an act which exposed to essential injury the interest of the western inhabitants of those States, while it could not be considered otherwise than as a high indignity to their Govt. His Catholic Majesty did not hesitate to disavow the act when complained of by the american Minister at Madrid. This disavowal made some atonement to the violated honor of the Govt, but no reparation for the injuries which had been sustained by individuals. A reasonable but adequate reparation is still due on that account, and it is expected that his Catholic majesty will see the justice and propriety of making it.

These circumstances have produced an in-

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teresting crisis in the political relation of the U States and Spain, which it is the sincere desire of the President to remove by fair and amicable arrangement. If the negotiation which is about to be commenced by his order, does not terminate in that result, it will be owing altogether to the Govt of Spain. The measure which is now adopted, the negotiation which is invited, are convincing proofs of the sincerity and good faith with which the President seeks to preserve the relations of friendship between the two powers. In the pursuit of this object, no unreasonable pretention is entertained, no unjust demand will be made. On the subject of boundaries, altho' the Congress on a thorough conviction of its rights, authorized the taking immediate possession of Louisiana according to its antient limits, and of course to the river Perdido to the east, yet the President, from motives of respect to the Catholic King, postponed the execution of the measure to give time for amicable explanations with his Govt, in full confidence that they will produce their desired effect. In respect to aggressions on our commerce and other injuries, it cannot be doubted that a suitable indemnity will be made for them. The cession of Florida is a question which rests on different grounds. The policy of that measure, & the conditions of it, in case the policy is admitted, are points to be decided by each Govt for itself, from a view of its interests and other circumstances. Should the cession be made and the other points be adjusted, there is no reason why the peace and friendship of the two nations should not be perpetual. There would remain no cause of jealousy between them, no points of collision. Possessed of ample territory to satisfy their growing population for ages to come, the U States would be left at liberty to pursue their interior arrangements without apprehending the interference of, or having the disposition to interfere with their neighbours. Such a system of policy on their part would contribute in a very eminent degree to the security of the vast dominions of Spain to the South of us.

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To Spain it is presumed that the territory is of but little importance. In itself it is of none, as it is a barren tract. If she retains it, it must be as a post for troops to be placed there in opposition to us: a measure which tends to provoke hostility and lead to war. The Havanna is a Post which answers more effectually every object which she could contemplate from this, while it is free from all the objections that are applicable to the latter. Being an Island it is less assailable by a foreign power: situated in the Gulph of Mexico, it furnishes the means of giving all the protection to her other possessions that she could desire: and by uniting her whole force at one point, increases her means of defence against attack, and of annoying her enemies in time of war. It is earnestly hoped that the Catholic King will take a dispassionate view of these circumstances and of the relative situation of the two powers, and meet the President in a suitable provision for their future friendship. Should he, however, be disposed to pursue a different policy, on him will the responsibility rest for the consequences.

The relation which has subsisted invariably between his Imperial majesty and the Govt which I have the honor to represent, has been of the most friendly character. It is on the knowledge of that fact and the satisfactory evidence which it furnishes, that the Emperor takes an interest in the welfare of the united States, it is on the promise above adverted to made on his part: to support with his good offices any negotiation which the President might commence with the Court of Spain for the acquisition of Florida. as also on the firm belief that the attainment of that object, with the amicable adjustment of all subsisting differences between the US States and Spain, must be advantageous to France, that his good offices has been and are now requested in support of that negotiation.

My mission to Spain being extraordinary, is also temporary. As soon as its objects are accomplished, it is my duty to return to London, which I shall do thro' this metropolis. when I hope to have the honor and pleasure of being presented again to his

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Imperial majesty. and of acknowledging in person. his friendly aid to my Govt. and Country in a transaction of high importance to its interest, which the President has thought fit to commit in part to my agency.

I beg your Excy. to accept the assurance of my high consideration &c &c

/signed/ Jas Munroe.

To Mr Madison from Mr Munroe

Sir Paris November 27th 1804.

I left England on my way to Madrid on the 8th ult. and passing through Holland arrived here on the 24th. It is probable I might have obtained permission of both govts to take a more direct route, by crossing the channel, but as that required a special indulgence, I thought it better not to ask it. I was more inclined to prefer the former route, as it placed me at a distance from their fleets and armies. and exempted the movement from the slightest suspicion of having any connexion with the concerns of either of the powers at war.

I flattered myself I should have been able to proceed on my journey hence before this, but I have been detained by considerations of a very imperious nature. These still exist in a certain degree, tho there is ground to hope that I may get off in ten or twelve days. You may be assured that I shall not delay my departure one moment longer, than the necessary attention due to the objects which brought me here, may indispensably require. I wish it was in my power to give you any satisfactory information on that subject or of the probable result of the mission to Madrid; but unfortunately it is utterly impossible for me so to do. I will possess you, to the best of my knowledge of the actual state of things. by which you will be able to form as correct a judgment on these points as it is practicable to do in the present stage.

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The day before I left England I received two letters from Mr Livingston of august 23d & Sept. 15 by the same conveyance, which shewed the embarrassing dilemma into which Mr Pinckney had got with the Spanish Govt, and that the Govt of France was endeavouring to convince him, Mr Livingston, that W. Florida was not comprised in the cession made by it of Louisiana to the U States. I was much concerned at this intelligence, especially the latter circumstance, since it diminished the hope we had before entertained, with great confidence, of the support of this Govt, in our negotiation with Spain. Nevertheless although my instructions intimated the propriety of making my departure from England for Madrid, dependant in a certain degree on the prospect of aid to be derived from France, in that negotiation, I considered it my duty not to retard my journey in consequence of the communication I had just received. I had been advised repeatedly before by Mr Livingston, that the French Govt was disposed to favor that negotiation: the necessary arrangements for my departure on the ground of that information, were already made: I had some time before apprised the British Govt, that I was entrusted with a mission to Spain, by the President, and was soon to set out in discharge of it, and a passport was then actually granted me for the purpose. These circumstances made it difficult for me to withdraw from the measure, had other considerations admonished me so to do; but every other consideration which presented itself to my mind, urged the propriety of my pursuing the course in which I had so far embarked. The crisis which had occurred between the U States and Spain, seemed to admit of no longer delay: the recent and of course growing indisposition of France, to give us the aid we had expected of her in the negotiation: the menace of war between G Britain and Spain, were strong arguments for making the experiment in the manner designated by the President without delay, to adjust our differencies with Spain. I therefore did not hesitate to set out the day after the receipt of Mr Livingston's letter; (every necessary preparation having

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having been made for the purpose) and to hasten forward here with as much dispatch as it was in my power to make. on my arrival in Paris Mr Livingston confirmed the information contained in his letters above mentioned, of the indisposition of this Govt. to aid us in the proposed negotiation, and added some facts which were still more explicit on that point. He informed me that Admiral Gravina the Spanish Ambassador had presented a note to the minister of foreign affairs, remonstrating in very strong terms against our right to west Florida, under the late Treaty with France; and claiming to restrict us to a very narrow strip of land on the western side of the Mississippi; to which note the minister had either answered or prepared an answer, which admitted that the pretensions of Spain appeared to the Emperor unreasonable. Mr Livingston also informed me that he had written a note to Mr Talleyrand, the object of which was to counteract that of the Spanish ambassador, which had not been answered, and to which he had been desirous to prevent an answer being given, untill he should be certain it would be a favorable one, which has not yet been the case. This information subjected me, as you will readily conceive to the greatest embarrassment. On mature reflection however there seemed to be no alternative left: that it was my duty to pursue in a direct course the objects of the mission, 'till it was concluded. But the negotiation had already been opened here with the French Govt by the Spanish minister, on such points as grew out of the cession made by it to the U States. That fact admitted the influence that France was likely to have in the negotiation: and the others already mentioned, furnished sufficient proof of her disposition to make use of it. It seemed therefore to be equally proper, indeed indispensable for us, to make an attempt to produce a change in the disposition of this Govt in the points above adverted to; which in truth embraced all the objects of the proposed negotiation at Madrid; and I

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was persuaded that my arrival here on my way to Madrid, to par-
take in that negociation, ~~[illegible]~~ furnished a suitable oc-
casion to make this attempt. As Mr Livingston had declined
any important act on account of the arrival of Gen.l Arm-
strong in France: as the Gen.l had not yet reached Paris; &
much time might elapse before his presentation to the Em-
peror; since such were made only at public audiences;
and as I was extremely anxious to proceed to Spain as soon
as possible: I committed to paper such a view of our differ-
encies with that power, as I wished to be presented to the
French Govt on the subject. Mr Livingston was so good as to send
the note to the minister of foreign affairs with one from himself;
copies of which as also of a letter from him to me and my answer
respecting the measure, are herewith enclosed. It gives me
pleasure to add that the note, after receiving some corrections
that were suggested by Mr Livingston and Gen.l Armstrong,
(the latter having arrived before it was sent to the minister) was
approved by both of them; that the measure itself was also approved by the latter.

I endeavoured to advert in the above mentioned note, to
every circumstance on which it might be proper to touch, in the pre-
sent juncture. I noticed the faithful execution of the Treaty between
the U States and France for the cession of Louisiana, in its great
points by both nations; the promise made by the French Govt, when
that Treaty was formed, to give us its good offices with that of Spain in
a negotiation for the acquisition of Florida; the delay in commencing
such a negotiation, for the purpose of harmonizing with the views
of France for the purpose of adopting a more suitable moment,
the interest which France has in adjusting our differences with
Spain, and the interest of Spain herself in the same event. I
then proceeded to state the essential objects of the proposed negotiation,
and to prove, by the aid of documents rec.d from you, that West
Florida already belonged to the U States, by the cession of Louisiana,
and was so considered, by the President and Congress, who had

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pased a law on that principle: and that Spain owed us so much for spoliations and other injuries, that after allowing her a suitable equivalent for E. Florida, must leave her, in case of a fair adjustment, considerably in our debt. It seemed to be due to candor in our attempt to settle with Spain the boundaries of the territory which we had acquired of France, to shew to the French Govt that we sought nothing that was unreasonable or unjust, that was not sanctioned by a fair construction of the instrument itself. Such a communication, it was presumed, could not be considered otherwise than as an act of friendly attention, especially as by the terms of the cession and object of the transaction, the arbitrage of France was precluded, and we are left completely at liberty, to judge for ourselves, in that respect. It was also presumable that the view which it presented, of the solidity and justice of our pretentions, might restrain the French Govt, should it be thus disposed, from interposing its good offices in favor of Spain, to our prejudice. It was equally proper, from many considerations, to shew, that no payment in cash could possibly result from the transaction.

I was aware that this measure was not free from objection, but in difficult situations all that can be done is to balance the probable good and evil, incident to any measure which is proposed, and to decide with integrity according to your judgment the course to be pursued, which has not been omitted in the present case. It may draw from the French Govt a formal declaration of those sentiments in favor of Spain, which were, I presume, informally communicated to Mr Livingston. But could that alter the state of things? While the French Govt entertains those sentiments, can it be doubted that its policy will be governed by them? That they were for example made known to Genl Beaumonville at Madrid, & he instructed to conform thereto? A contrary idea supposes this Govt acts without rule or system: that one doctrine is held on the same subject here, and another at Madrid; and that measures

founded

founded in opposite principles compromitting it to both parties, are taken by it at the same time. This is not presumable, nor is it justified by the facts above stated. If the French Govt. had resolved to adopt the cause and support the interest of Spain, it was fair to conclude that it would do so, altho' it made no formal declaration of such decision, at this time. The effect would be felt at Madrid, as soon as the negociation commenced. Thus after much time was lost, we should probably have had to commence the same proceeding here, that we have now done, under circumstances which must have committed the result more completely to the control of France. The state of Europe might be less favorable to our views, and by appealing to her, after a fruitless effort with Spain, it must be done with less dignity, and of course less effect. At present the proceeding is in its natural order, and of course in rule. The communication was invited by the actual state of things; by the object in view; the past and present relation of the parties to it. The object is important to the three powers: it is evidently so to the U States and Spain: it is likewise so to France who had begun to act a part in it. By making then the communication full and direct to the object, we answer every claim which her Govt has on our candour and our friendship; and by spurning every thing like intrigue, we invite it to follow the example: while by giving a just view of our rights, and of the crisis which has occurred, we enable her, while she may do it with credit, to take that part in it, which her honor and interest may dictate. I was therefore of opinion that the measure was proper in all the lights in which I could contemplate it. To France it gives an unequivocal proof of our desire to preserve forever the friendship which now subsists between the two nations, while it makes her responsible for any change which may take place of an opposite character not sanctioned by the strictest principles of justice. And with respect to the U States while it is not likely to expose them to an injury and may produce some

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advantage, by procuring from France the aid which they have a right to expect in the proposed negotiation, it may, by probing the affair to the bottom, and making known the true state of things, enable the President with greater satisfaction to himself, and advantage to his country, to discharge all the duties which may be required of him at the present juncture.

I am, Sir, with great respect and esteem
Yr very obedt. Servt.
(signed) Jas Monroe.

To Mr Madison from Mr Monroe.

Madrid Jany 19th 1805

Dear Sir

I arrived here on the 2nd which was notified immediately to Mr Cevallos by Mr Pinckney, who acknowledged the notice in polite terms, from Aranjuez, to which place the Court was moving at the time of my arrival. He invited us there, for me to be presented to the King, which took place on the 13th. The reception was very attentive and friendly. We had one interview with the minister afterwards, in which I touched on the several points between our governments, but without drawing other than general declarations of friendship and assurances of a sincere desire on the part of his Majesty to adjust every thing. It was agreed that we should present a project, which will be done in a few days. I came here to dismiss my lodgings and take my baggage to Aranjuez, where I shall stay principally 'till our business is concluded in one or other mode. Since my return here, that is, yesterday, I received yours of October 25th. When I came Mr Pinckney and myself were associated in the same commission. He was so in the letter of credence which I presented to the King. Nevertheless he observed to the minister that he should leave the conferences to me, intimating that he had some time since asked his letter of recall, which he daily expected, but would sign what we should agree on. He did the same to the Prince of

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Peace. The former replied that he should treat with pleasure, with whomsoever The President authorised for the purpose: the latter seemed not to notice the intimation, but received him politely. Mr Pinckney is desirous of remaining in the association, and it is very much my wish that he should. He offered as abovementioned to withdraw: and would I presume compleately, now that I have a commission, if desired. But he ought to be treated with delicacy: in addition, it would have been impossible at first, especially as being associated with me, to have seperated in any manner from him, without admitting that he had erred in some important point, which did not appear to me to be the case. On the contrary I was of opinion that in discussing the points between the Govts, he did it with firmness and ability. It will be my object to manage the affair in such manner, as to prevent his association doing any injury in the negotiation, while the most delicate attention is paid to the feelings and character of Mr Pinckney. He is perfectly satisfied with your letter to him. I write you this in great haste, simply to give an idea of the actual state. I shall in my next go more into the business as I shall be better enabled to do, by the progress we shall in the interim make in it. I set out this moment for Aranjuez.

I am Sir. with great respect & esteem
Yr very dedt Servt
(signed) Jas Monroe.

To Mr Cevallos from Mr Monroe.

Sir Aranjuez Jany 28th 1806

It is the sincere desire of the President to establish the relations between the U States and Spain, on a footing of permanent friendship. As a signal proof of that disposition, he has sent an extraordinary mission to his C Majesty, with full power in conjunction with their minister at Madrid, to enter into such ar-

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rangemt on just and equal principles, as may be best adapted to the object. The situation of the two countries, at this time, required such an effort on his part, and it is our wish, as it is our duty, to do every thing in our power to carry it into effect.

It is proper to examine impartially the several points which are depending between our Govts. To make their friendship perpetual, every cause of complaint and inquietude should be brought into view and amicably settled. For this purpose it is necessary to ascertain their respective rights in each case; since thereby an unerring rule will be established, by which this adjustment may be made, and their future harmony secured. No just Govt will ever demand any thing which will not bear the test of that rule: no just Govt will ever refuse to discharge an obligation which it imposes. We will proceed in this enquiry with full confidence, that both our Govts are animated with the same zeal to do justice, with the same desire to cherish the friendly relations which have heretofore subsisted between them.

In the course of the last war many aggressions were committed on the peaceful, and as it is presumed, lawful commerce of the U States, to the great injury of their citizens, within the territory and jurisdiction of Spain, for which they are entitled to compensation. It cannot be doubted, but that Spain is responsible for these injuries, in all cases where the condemnation was contrary to the law of nations, the subsisting treaty between the two powers, and those principles of justice which are recognized and respected by other nations. It is to be regretted that a perfect accord has not yet taken place between our governmts, in the mode of adjusting all the claims proceeding from this cause. It is however matter of much satisfaction to observe that they have gone so far in the establishment of just principles, and approached so near in sentiment, as to justify the expectation, that all differences will now be removed.

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The discussions which have already taken place on the subject, have too fully illustrated its merits, to require any thing to be added on that point at present. We observe with pleasure, that the President reposes too much confidence in the high character of his Catholic Majesty, which is distinguished by a sacred regard to justice, to doubt his agreement to whatever is dictated. The proposition which we have the honor to make to your excellency on this point rests on that basis, and will therefore, we flatter ourselves receive his sanction. Your Excellency will find, that in the terms of payment of such sums as may be awarded, a new accommodation is proposed, which is equally a proof of the disposition of our Govt. to conciliate the views & interests of his C. Majesty, on this transaction.

The suspension of the right of deposit at New Orleans by the Intendant of his Majesty, in the winter of 1802[3], contrary to the treaty of 1795, to the great injury of the Citizens of the U States who inhabit the territory which is bounded by the Mississippi and the waters emptying into it, is also an act for which they are entitled to reparation. By restoring the deposit on the complaint of the President, his majesty gave a proof of his strict satisfactory regard to the obligation of treaties, and the principles of justice: but by so doing the injuries which had been sustained by individuals were not redressed, nor were the just views of his Majesty in that respect completely fulfilled. It is presumed that his Majesty will not hesitate to allow an adequate indemnity for the loses which were sustained by this act of the Intendant. It is one of the objects of the enclosed Project to provide for them.

The above are the injuries which have been received by the citizens of the U States, for which it is proposed to provide a suitable compensation. In seeking justice however, it is equally the duty of their Govt. to render it. It is possible that his majesty's subjects may have received injuries within the territory or

risdiction of the U. States, or by their officers elsewhere, for which the U. States are also responsible. It has been the invariable effort of their Govt to preserve the best understanding with his C. majesty, by a faithful observance of every duty imposed by the law of nations, and the treaty subsisting between them, in their political and commercial intercourse. If such injuries have been rendered, it is the earnest wish of the President that a just reparation should be made for them.

For the fair and amicable adjustment of all such claims on both sides, it is proposed to establish a board of commissioners, impartial and independent, which shall be vested with full powers, to hear, determine, and grant awards for all such, as shall appear to be well founded. This mode has proved adequate in similar cases between the U. States and other powers. It is not doubted but that it would prove equally so between the U States and Spain.

There is another question, which it is equally proper to adjust at this time. By the cession of the Province of Louisiana by his majesty the emperor of France to the U States, it becomes necessary to settle its boundary with the territories of his C. majesty in that quarter. It is presumed this subject is capable of such clear and satisfactory illustration, as to leave no cause for any difference between the parties. By the Treaty of April 30th 1803, between the U States and France, the latter ceded to the former the said province in full sovereignty, in the same extent and with all the rights which belonged to it, under the treaty of October 1800, by which she had acquired it of Spain. That the nature and extent of the acquisition might be precisely known, the article of the Treaty of St Ildefonso, making the cession, is inserted in that of Paris. To a fair and just construction, therefore, of that article the U States are referred for the extent of their rights under the Treaty of 1803. There is nothing to abridge its force or detract from the import of its very clear and explicit terms.

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The discussions which have already taken place on this subject, have too fully illustrated its merits, to require any thing to be added on that point at present. We observe with pleasure that the President reposes too much confidence in the high character of his Catholic Majesty, which is distinguished by a sacred regard to justice, to doubt his agreement to whatever he dictates. The proposition which we have the honor to make to your excellency on this point rests on that basis, and will therefore, we flatter ourselves receive his sanction. Your Excellency will find, that in the terms of payment of such sums as may be awarded, a new accommodation is proposed, which is equally a proof of the disposition of our Govt. to conciliate the views & interests of his C. Majesty, on this transaction.

The suspension of the right of deposit at New Orleans by the Intendant of his Majesty, on the winter of 1802 & 3, contrary to the treaty of 1795, to the great injury of the Citizens of the U States who inhabit the territory which is bounded by the Mississippi and the waters emptying into it, is also an act for which they are entitled to reparation. By restoring the deposit on the complaint of the President, his majesty gave a satisfactory proof of his strict regard to the obligation of treaties, and the principles of justice: but by so doing the injuries which had been sustained by individuals were not redressed, nor were the just views of his Majesty in that respect completely fulfilled. It is presumed that his Majesty will not hesitate to allow an adequate indemnity for the loses which were sustained by this act of the Intendant. It is one of the objects of the enclosed Project to provide for them.

The above are the injuries which have been received by the citizens of the U States, for which it is proposed to provide a suitable compensation. In seeking justice however, it is equally the duty of their Govt. to render it. It is possible that his majesty's subjects may have received injuries within the territory or

jurisdiction of the U. States, or by their officers elsewhere, for which the U States are also responsible. It has been the invariable effort of their Govt to preserve the best understanding with his C. majesty, by a faithful observance of every duty imposed by the law of nations, and the treaty subsisting between them, in their political and commercial intercourse. If such injuries have been rendered, it is the earnest wish of the President that a just reparation should be made for them.

For the fair and amicable adjustment of all such claims on both sides, it is proposed to establish a board of commissioners, impartial and independent, which shall be vested with full power, to hear, determine, and grant awards for all such, as shall appear to be well founded. This mode has proved adequate in similar cases between the U. States and other powers. It is not doubted but that it would prove equally so between the U States and Spain.

There is another question, which it is equally proper to adjust at this time. By the cession of the Province of Louisiana by his majesty the emperor of France to the U States, it becomes necessary to settle its boundary with the territories of his C. majesty in that quarter. It is presumed this subject is capable of such clear and satisfactory illustration, as to leave no cause for any difference between the parties. By the Treaty of April 30th 1803, between the U States and France, the latter ceded to the former the said province in full sovereignty, in the same extent and with all the rights which belonged to it, under the treaty of October 1800, by which she had acquired it of Spain. That the nature and extent of the acquisition might be precisely known, the article of the Treaty of St Ildefonso, making the cession, is inserted in that of Paris. In a fair and just construction, therefore, of that article the U States are referred for the extent of their rights under the Treaty of 1803. There is nothing to abridge its force or detract from the import of its very clear and explicit terms.

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We have the honor to present to your Excellency a paper on this subject, which we presume proves in the most satisfactory manner, that the boundaries of that province, as established by the treaties referred to, are the river Perdido to the east, and the rio Bravo to the west. The facts and principles which justify this conclusion are so satisfactory to our Govt., as to convince it that the U. States have not a better right to the Island of Neworleans, under the cession referred to, than they have to the whole district of territory which is above described. Aware however, that the question of boundary was one in which his Catholic majesty was also interested, the President was not unmindful of what was due to that consideration. In pursuing and supporting the just rights of the U States, he is far from wishing to interfere with or encroach on those of Spain. As neighbours, he was also sensible of what was due to that interesting relation. And as a power which obtains respect in its intercourse with other nations, he was resolved to give a distinguished proof of that of the U. States for his C. majesty in the present case. Thus no step has been taken since the territory was surrendered to those states by France, otherwise than in a strong expression by Congress of its sense of their rights, no portion of it has been garisoned or even passed by their troops, which could involve any question of the kind adverted to, or manifested a disposition incompatible with those just & friendly sentiments. This definitive arrangements are yet to be taken. We seeks to adopt them in harmony with the sentiments and interests of his C Majesty; a motive which induced the measure of an extraordinary mission, and inspires this communication.

So far we have treated of the boundary which of right ought to be established between the two nations. It is however proper to examine and treat the subject in another view. By the acquisition of Louisiana the U States & Spain, have assumed, in some respect, a new relation to each other.

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other. It is in its nature a very interesting one. It is practicable at this time, to place it on such a footing by suitable arrangements, as to preserve their friendship for ages. The importance of the subject merits their very dispassionate consideration, since a failure to adopt such, may be productive of much harm. Happily it is an unquestionable truth, that in consideration of the permanent and substantial interests of the two powers, there does not exist at present, a single point of collision, an opposing interest between them. There are some topicks only, of uneasiness and jealousy easy to be removed, but which if suffered to remain may engender animosities, embitter their intercourse, and finally prove the cause of much trouble and even misfortune to both nations. To remove them requires no sacrifice. On the contrary much will be gained, since by so doing their harmony, and with it their permanent interests will be secured. What effect does the acquisition of Louisiana, by the U States, produce on the interests of the two powers, in reference to each other? and what ought it to produce in their policy? These questions admit a ready answer. That Province is bounded by Florida to the east, and mexico to the west: hence Florida is surrounded on every side, that of the ocean excepted, by the territory of the U States; it is of course an object with those states to possess it. And as Louisiana extends westward to mexico, it is presumed to be an object with Spain to retard the progress of their settlement in that quarter. Here then is the obvious ground of an accord between the two nations, in an arrangement which seems to be well adapted to accomplish an object which each deems of importance. The project which we have the honor to present to your Exc^y. is intended to conciliate and provide for those interests. It is believed that its adoption will effectually do so. Your Exc^y must be sensible, under existing circumstances, and especially

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since the acquisition of Louisiana. that that of Florida has become an object of much less importance to the U States. It is not from a want of territory, because it is known not to be fertile. and without it they have enough to satisfy their growing population for ages to come. It is, in truth, suggested more by a desire to remove all cause of future variance between them and Spain, than any immediate advantage to be derived from it, in other respects. While that province remains to Spain it must be, in some degree, a cause of jealousy to the U States. Situated in their interior, and detached from the other dominions of his Catholic majesty, it is probable, to render it secure, he would be compelled to put a strong force there; hence the U States would be compelled to do the same. Thus the attitude of hostility would be immediately taken, which a thousand causes would tend to promote. The jealousy of governments so contiguously situated, the rivalry of Governors and Generals, and the conflict of commercial regulations, could not fail to produce that effect: in addition to which, it cannot be doubted that other powers would take a pleasure in seeing a rupture between the U. States and Spain. It is presumed that they are interested in it. Remove however this obstacle, and establish on just principles, their western boundary, and all cause of inquietude and misunderstanding will be at an end. Their territories and police will be distinct and their military stations at some distance from each other. Each power will regulate its own concerns, as it thinks best: neither will be interested in disturbing those of the other. Their Govts on the contrary, will find themselves bound by their interest, their faith, and their character, to keep their citizens within their own limits, which it will take ages to fill. Should Spain not place a strong force in Florida, it will not escape your Excy's attention that it will be much exposed to the danger of being taken pos-

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cession of, by some other power, who might wish to hold it, with very different views towards Spain, than those which animate the Govt of the U States: Without a strong force there, it might even become an asylum for adventurers and free booters, to the great annoyance of both nations. In this light however we forbear to press it.

It is proposed by the enclosed project to establish a district of neutral territory, between the two nations on which neither party shall encroach, and with a view to accommodation, that it should be exclusively, for a given term, within the supposed limits of Louisiana. We are willing that this term should amount to twenty years, to give time for ulterior arrangements, relative to that object, and the establishment of a permanent boundary between them, in that quarter. If the boundaries of Louisiana are, as our Govt believes them to be, and as we presume, sufficiently proved by the enclosed paper, this arrangement cannot otherwise than be considered in the light it is intended. This proposition, however, is not offered as an equivalent for the cession of Florida. It is proposed to make a pecuniary compensation for the cession, to an amount which is deemed equal to the value. To fix that value, in case his C. majesty is disposed to make the cession, cannot, it is presumed be difficult, since, without regarding other considerations, the sum given for the whole Province of Louisiana, furnishes a just and suitable standard. By comparing the extent of the territory of Louisiana, with that of Florida, and taking into consideration the immense advantages derived to the U States, from the entire command of the Missisipi, and all the waters emptying into it, which followed the cession of Louisiana, we are promptly led to a fair result. On this point we wish to confer in person, when it may suit your Exs convenience. The sum which may thus be agreed on, it is wished to appropriate, in the manner mentioned in the proposed convention.

In

In seeking to terminate amicably, all subsisting differences between the two powers, and to place their future relations on a basis of permanent friendships, it is thought that a formal stipulation in behalf of each, not only to observe the limits which may be agreed on between them, but to cause them to be observed by their respective citizens and subjects, may have a very salutary effect. If such a stipulation is regarded, only as a proof of the spirit in which the convention is formed, it will always have weight with both Govts to insure a compliance with it. But it merits to be viewed in a stronger light, since it makes it the duty of each Govt to be attentive to, and enjoin it on their citizens and subjects respectively, strictly to observe the same.

As the convention of the 11th August 1802, has not been carried into effect, it is thought best, to suffer it to fall and incorporate its contents into the present one. On that principle the project is formed. There seems to be a propriety in accommodating all subsisting differences, and providing for the respective interests of the two powers, to comprise the stipulations which are necessary for the purpose, in the same instrument. To this mode however, we have no preference, and only submit the idea to your excellency's consideration.

To facilitate the communication, and promote dispatch, in an object of so much importance to our Govts, we have the honor to annex a translation into french, of this note, and the papers which accompany it to your Excy. They are as correct as they could be made by those attached to the legation, to whom alone could be confided their contents. We beg leave, however, [redacted] to observe, that we consider ourselves responsible only for the originals, which are in english.

We beg your Excy to accept the assurance of our distinguished consideration & esteem

His Excy
Dn Pedro Cevallos &c
&c &c &c.

(signed) Chas Pinckney
Jas Monroe.

Project of a Convention

Art. 1. Spain acknowleaging and confirming to the U States, the cession of Louisiana in an extent eastwardly to the River Perdido, cedes to them for ever, all the territory remaining to her, between the Mississipi, the Atlantick, and the Gulf of Mexico, together with all the islands thereunto annexed, either whilst the Floridas belonged to Great Britain, or after they became provences of Spain.

Possession of the said territory shall be delivered to a person, authorised, by the U States to receive the same within Days, or less if practicable, after the exchange of ratifications of this convention. With the said territory shall be delivered all public property, except ships and military stores, as also all public archives belonging to the same.

Within Days after the delivery of possession, or sooner if possible, the Spanish troops shall evacuate the territory hereby ceded: and if there should be any Spanish troops remaining within any part of the territory ceded by France to the U. States, all such troops shall, without delay, be withdrawn

Spanish subjects within the ceded territory who do not choose to become citizens of the U. States, shall be allowed eighteen months, to dispose of their real property: and remove or dispose of their other property.

The Inhabitants of the ceded territory shall be entitled to the same incorporation into the U. States, and to the same protection in their religion, their liberties and their property, as were stipulated to the Inhabitants of the territory ceded to the U. States, by the Treaty of April 30th 1803, between those States & France.

Art. 2. It is agreed that for the term of years, no lands shall be granted, nor shall persons who may have settled since the first of Octr 1800, on lands not granted prior thereto, be permitted to

to continue within the space defined by the following limits: to wit. by a limit consisting of the River Colorado on the one side, from its mouth to its source, thence a straight line to the most south-westwardly source of the red river, with such deflections however, as will hold all the waters of that river. Thence along the ridge of the high lands, which divide the waters belonging to the Missouri and Mississippi, from those belonging to the rio Bravo to the latitude of the northernmost source of that river and thence a meridian to the northern boundary of Louisiana. and by a limit, on the other side of the rio Bravo from its mouth to its source, and thence a meridian to the northern boundary of Louisiana.

Such of the settlements within the foregoing limits, not prohibited by the preceeding clause, as were not under the authority of the Govt of Louisiana, shall continue under the authority of Spain. Such as were under that authority shall be under the authority of the U States. But the parties agree that they will respectively offer reasonable inducements, without being obliged to use force, to all such settlers to return from the space above limitted, and establish themselves elsewhere.

The Indian tribes, within the same limits, shall not be considered as subject to, or exclusively connected with, either party. Citizens of the U States and Spanish subjects shall be equally free to trade with them, and to sojourn among them as far as may be necessary for that purpose; and each of the parties agrees to restrain, by all proper and requisite means its respective citizens and subjects, from exciting the Indians, whether within or without the said limits, from committing hostilities or aggressions of any sort, on the subjects or citizens of the other party. The parties agree moreover, each of them, in all public transactions and communications with the Indians, to promote in them a disposition to live in peace and friendship with the other party.

It shall be free for Indians, now within the ter-

territory of either of the parties to remove to, and settle within, the same limits, without restraint from the other party. And either party may promote such a change of settlement by Indians within its territory, taking due care not to make it an occasion of war among the Indians, or of animosities in any of them, against the other party.

The U States may establish garrisons sufficient as security against the Indians, and also trading houses, at any places within the said limits, where garrisons existed, at any time under the Spanish Govt. of Louisiana. And Spain may continue garrisons, for the like purpose, at any places where she now has them, and establish trading houses thereat. Either party may also cause or permit any party of the country, within the said limits to be explored and surveyed, with a view to commerce or science.

It shall be free for either of the parties, to march troops ~~to attack~~ within the said limits against Indians at war with them, and for the purpose of driving or keeping out invaders or intruders.

Art. III. It is agreed that within years previous to the expiration of the aforesaid term of years, due provision shall be made for amicably adjusting and tracing the boundary between the territories of the U States, westward of the Mississipi, and the territories of his C. majesty, which boundary shall then be established according to the true and just extent of Louisiana, as ceded by Spain to France, and by France to the U. States, uninfluenced in the smallest degree, or in any manner whatever, by the delay, or by any arrangement or circumstance contained in, or resulting from, this convention.

It is also expressly stipulated by the parties, that they will cause the limits which are hereby defined, or may be hereafter defined, between them, to be faithfully observed by restraining their respective citizens and subjects, by suitable arrangements, from violating them in any manner whatever

Art. IV.

Art. IV. His majesty and the United States wishing, in the same spirit of conciliation, amicably to adjust the claims, which have arisen from the wrongs and excesses committed, during the late war, by individuals of either nation, or by others within the territory or jurisdiction of either, contrary to the laws of nations, the treaty existing between the two countries, or the principles of justice, have determined that the same shall be adjusted, in the following manner. A Board of Commissioners shall be formed, consisting of five Commissioners;- two of them shall be appointed by his Catholic majesty, two others by the President of the U. States, with the advice and consent of the Senate, and the fifth by common Consent of the four Commissioners, and in case they should not be able to agree on a person for the fifth, the Commissioners of each power shall name one, and leave the decision to lot; and hereafter in case of the death, sickness, or necessary absence of any of these already appointed, the remaining Commissioner or Commissioners of the power, whose Commissioner is dead, or unable to attend, shall fill the vacancy. When thus appointed, each one of them shall take an oath to examine, discuss, and decide impartially on the claims, which they are to judge according to the laws of nations, the existing treaty, and the principles of justice. The Commissioners shall meet & hold their session in Madrid, where within the term of eighteen months, to be reckoned from the Day on which they assemble, they shall receive all claims, which in consequence of this convention may be made, aswell by the subjects of his C Majesty, as the citizens of the U States of america, who have a right to demand compensation for the wrongs and excesses, committed by Spanish subjects, or American citizens, or others, within the territory or jurisdiction of either of the contracting parties. The Commissioners are authorised, to hear and examine on oath, every question relative to the said demands, and receive as worthy of credit all

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Art. V. The said Com
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all testimony and evidence, the authenticity of which cannot be doubted. The said Commissioners shall grant awards, for the sums which may be due to the several claimants, with interest on the same, at the rate of six per cent. per an: to commence from such dates respectively, as to them shall appear to be just. From the decision of the Commissioners, there shall be no appeal, and the agreement of three of them shall give full force and effect to those decisions, as well with respect to the justice of the claims, as the amount of the indemnification which may be judged to the claimant. The said contracting parties obliging themselves to satisfy the said awards in specie, in the manner stipulated by the 6th article of this convention.

Art. V. The said Commissioners shall also take cognizance of, and estimate all damages, which were sustained by the Citizens of the U States, by the suppression of the right of deposit at N Orleans, by the Intendant of his C. majesty, in the year 1802 & 3, contrary to the treaty of 1795; for which the said Commissioners shall grant a certificate to the Govt of the U States. the amount whereof, shall be paid to it, by the Govt of Spain, in the same manner as is stipulated in favor of other claims, in the preceding article. The Govt of the U States, shall pay the sums thus received to the individuals, who were injured by the suppression of the said deposit.

Art. VI. It is further agreed that the respective governments will pay the sums awarded by the said Commissioners, under this convention, in manner following.

The Govt of the U States shall pay all such sums, not exceeding dollars, which may be awarded as compensation to Citizens of the U States, from his C majesty, in three equal annual instalments, at the City of Washington, the first instalment to be paid in eighteen months after the exchange of the ratification hereof. or in case they shall

shall not be so paid, they shall bear an interest of six
pr cent: per annum: from the time they become due untill they
are actually discharged, and in case the aggregate of said sums
should not amount to the said sum of Dollars, the U States
will pay to his C. Majesty, within one year after the final liqui-
dation of the claims cognizable by the said Board, at the city of
Washington, so much as the said aggregate may fall short of
the sum above mentioned; But on the other hand if the whole
amount of the sums awarded to citizens of the U States, should
exceed the sum of Dollars his C Majesty shall
pay the surplus, without deduction, to such claimants, within
one year after their claims shall be respectively liquidated.
The said claims shall nevertheless bear an interest of six pr
cent: from the time of their liquidation untill they are dis-
charged.

The Govt. of the United States shall also pay
without deduction, at the City of Washington, all such
sums as may be awarded against them, by the said com-
missioners, for compensation due to Spanish subjects, within
one year after their claims shall be liquidated, and from the
time of their liquidation, the said claims shall bear an in-
terest of six per cent. per annum: untill they are discharged.

Art VII. This convention shall be ratified within
after the signing thereof, or sooner if possible, and the rati-
fications shall be exchanged in Days after the
ratification, by the U. States, at the City of Washington.

Letter from Mr. [illegible]

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Letter from M. Cevallos to messrs Pinckney & Monroe.

Aranjuez 31st Jany 1805

Gentlemen,

The King my master, having on all occasions given such repeated proofs of his friendship towards the U. States, and of his sincere desire to live with them in peace and harmony, could not but hear with pleasure, what you have been pleased to manifest in your esteemed note of the 28th inst., relative to the sincere desire of the President of the U. States, to fix the friendly relations of the two countries, in a manner the most solid and permanent, and that, for this purpose the american Govt. had named an extraordinary mission at this court, to commence such negotiations as might be best adapted to compleat an object of so much importance, and founding them on just and impartial principles. His Majesty ~~desiring nothing~~ on his part, desires nothing more ardently than that those equal and just principles, so conformable to the rectitude of his royal mind, may direct the discussions and negotiations, depending between the two Govts. For this end, nothing appears better adapted than the mode proposed by your Excellencies, in the first part of your note. (here follows the quotation).

According to this principle proposed by your Excellencies, and which certainly, is highly worthy the good faith of both Govts. it appears the most proper, that before we proceed to examine projects of a convention, which ought to result from a discussion of all the different points in dispute, we should first examine each point seperately, and in this form, determine the respective rights of each country, and then proceed to such negotiations, as the interests of each country may require. Under this idea, and following the tenor of your note, it appears that the points depending may be reduced to the following.

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1st The Damages occasioned, during the last war, by the excesses committed by Individuals of both Countries, contrary to the law of nations, and the existing treaty. This point is nearly decided by the convention of 1802. which has been ratified by the American Govt. and his majesty, on his part, is disposed to ratify the same, after the obstacles, which occasioned its postponement, shall be removed. Thus there is but little to regulate on this point, considering how far it has already advanced, and that the sincere desire of both govts is to proceed with candor and good faith.

The 2d point, mentioned in your Excellencies' note, relative to the indemnification of injuries, supposed to have been received by american citizens, in consequence of the suppression of the right of deposit at N Orleans, by order of the Intendant of that City, is a point of discussion, which has not as yet been commenced, and it is one, on which the Spanish Govt is convinced, that the U States have neither any motive or right to found a reclamation.

3d. This point, which is relative to the demarcation of the limits of Louisiana, retroceded by Spain to France, and by her transferred to the U States, by its nature, subdivides itself into two others, to wit, the demarcation of the limits of Louisiana on the east, or side of the Floridas, and that on the side of the interior provinces of new Spain, as a testimony of the desire, with which his majesty is actuated, that these demarcations may be executed with the skill and justice requisite, and at the same time, with all possible dispatch, I have to inform you, what is already known to your Govt, that at the commencement of the last year, the King named for his Commissioner, for these demarcations and limits, Brigadier marquis of Caro Calvo, who is now at N Orleans with the Engineer Don Josef Martinez.

Not having yet agreed upon others of the said points, mentioned in your Excellencies note, and they being by their nature unconnected, it appears that it would only be confounding them, and multiplying their confusion, to treat upon the whole at

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Letter from M

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once, and proceed immediately to form, for either party, projects of a convention, from the mass. Analize these incorporated points of discussion, and a discussion of them will become much more simple and plain, and with this new light, it will afterwards be easy to embrace the whole at one view. This method is clear and simple, and according to my idea, is what you indicate, in the first part of your note. This being the case, it appears to me, that we may occupy ourselves, in the first place, in determining the point, relative to the reclamation; for which purpose, we may take up the convention of august 1802., by reason of its almost finished state. Fix the rights of each country, on each point, and the means will be plain and easy to negotiate them, with that equal utility, which both countries may find convenient. I have no doubt, but that you will fix this method of proceeding, conformable to reason, and waiting your reply I am &c.

Signed, Pedro Cevallos.

Letter from Messrs Pinckney & Monroe to Mr Madison

Sir Aranjuez Feby. 12th 1805

Although the negotiation, with which we are charged, with the Govt of Spain, is only in the earliest stage, yet we consider it our duty to communicate to you, what has passed on that interesting subject, by the safe opportunity furnished by Mr Garnham, who leaves Madrid tomorrow for the U States. As soon as the mission extraordinary was received by the King and we were apprised by Mr Cevallos, that he was authorised to treat on the subject of it, by his request, we presented to him on the 28th ult. a project of a convention, for the adjustment of its several objects, with a note explanatory of each. To this note, we received this morning his answer: copies of which several papers, we have the pleasure to transmit to you. We shall pursue this business, with the most unremitted attention, and industry, and labour.

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by all the means in our power to bring it to a just and honorable conclusion. It is however utterly impossible, at present, to form any satisfactory opinion of the result: some circumstances are encouraging, yet we flatter ourselves that the Govt of Spain will prove itself too enlightened not to estimate with due discernment the strength and disposition of the U States in case justice should be withheld from them, or so respectful and solemn an appeal to greed to improper suggestions on that head or to improper calculations or support which we trust can never be given her in such a cause. In case a convention is formed or the negotiation fails to produce one, we shall hasten to transmit to you the result by a special and confidential messenger.

We are Sir with great respect & esteem

Your very obed. Servts

Chas Pinckney

Jas Monroe

Letter from Mr Armstrong to Mr Monroe

Dr Sir. Paris Jany. 5th 1805.

Inclosed is a copy of M Talleyrand's answer. It is calculated to put the Court of Madrid at rest. I have not yet decided whether I will reply generally: confine myself to a defence of the Govt against the charge of aggression &c, or merely say, that I shall transmit a copy of the note to the executive of the U States, and wait their directions.

The "latter" is the course most approved by my feelings the last by my judgment. My first letter to you reached Bordeaux the day you left it, and was destroyed as I directed in the event of your having set out. It contained little more than three lines informing you of a prediction here, which in all probability will verify itself, viz, that you will do nothing at Madrid, as you would find the negotiation transfered to the other

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Letter from M

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I am very truly yours.

John Armstrong.

Letter from M Talleyrand to Mr Armstrong

Sir Paris Dec: 25th 1802.

I had the honor, in Brumaire last, to inform Mr Livingston, that I would submit to the inspection of his imperial majesty, the letters which he addressed to me, relative to the motives of Mr Monroes journey to Spain, and some discussions between the Court of Madrid and the U States.

Among the observations made on this subject by messrs Livingston & Monroe, his Imperial majesty has been obliged to give particular attention to those bearing on the discussions, of which the object is peculiarly interesting to the French Govt. He has perceived that he could not be a stranger to the examination of these discussions, since they grow out of the treaty, by which France has ceded Louisiana to the U States: and his majesty has thought that an explanation made with that fidelity which characterises him; on the eastern boundaries of the ceded territory, would put an end to the differences to which the cession has given rise.

France in giving up Louisiana to the U States, transfered to them all the right over that colony which she had acquired from Spain: She ~~could~~ not ~~never~~ did she ever wish to cede any other: and that no room might be left for ~~doubt to arise~~ in this respect, she repeated in her treaty of 1803. the literal expressions of the treaty of St Ildefonso., by which she had acquired that Colony two years before.

Now it was stipulated in her treaty of the year 1800, that the acquisition of Louisiana by France was a retrocession: that is to say, that Spain restored to France what she had received from her in 1762. At that period she had received the territory bound-

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bounded on the east by the mississippi. the River Iberville, [Land of the 32d of north latitude] the lakes Maurepas and Pontchartrain: the same Day France ceded to England, by the preliminaries of peace, all the territory to the Eastward. Of this Spain had received no part, and could therefore give back none to France

All the territory lying to the east of the mississippi, and Iberville, and south of the 32d degree of north latitude, bears the name of Florida. It has been constantly designated in that way during the time that Spain held it: it bears the same name in the treaty of limits, between Spain and the U. States; and in different notes of Mr Livingston, of later dates than the treaty of retrocession, in which the name of Louisiana is given to the territory on the west side of the mississippi, of Florida to that on the east of it.

According to this designation, thus consecrated by time, and even prior to the period when Spain began to possess the whole territory between the 31°. the mississippi. and the sea, that country ought, in good faith to be distinguished from Louisiana. Your Excellency knows, that before the preliminaries of 1762, confirmed by the treaty of 1763. the French possessions situated near the mississippi, extended as far from the east of this river, towards ~~xxxxxx~~ the Ohio and Illinois, as in the quarter of the Mobile; and you must think it as unnatural, after all the changes of sovereignty which that part of America has undergone, to give the name of Louisiana to the district of mobile, as to the territory more to the north, on the same bank of the River, which formerly belonged to France.

These observations, Sir, will be sufficient to dispel every kind of doubt with regard to the extent of the retrocession made by Spain to France in the month of vendemaire, year 9.. It was under this impression that the French and Spanish Plenipotentiaries negotiated, and it was under this impression, that I have since had occasion to give the necessary explanations

when

when a project was formed to take possession of it. I have said before his Imp. Majesty the negotiations of Madrid, which preceded the treaty of 1801. and his majesty is convinced that during the whole course of these negotiations, the Spanish Govt has constantly refused to cede any part of the Floridas, even from the Mississippi to the Mobile.

His Imp. Majesty has moreover authorised me to declare to you, that at the beginning of the year 11., Genl Bournonville was charged to open a new negotiation with Spain for the acquisition of the Floridas. This project, which has not been followed by any treaty, is an evident proof that France had not acquired by the Treaty retroceding Louisiana, the Country east of the Mississipi.

The candor of these observations proves to you Sir, how much value his majesty attaches to the maintenance of a good understanding between two powers, to whom France is united by connexions so intimate and numerous. His majesty, called upon to give explanations which interested France directly, persuades himself that they will leave no ground of misunderstanding between the U States and Spain: and that these two powers, animated as they ought to be, by sentiments of Friendship which their vicinity and their position render so necessary, will be able to agree with the same facility on the other subjects of their discussion.

This result his Imp. Majesty will learn with real interest. He saw with pain the U States commence their differencies with Spain in an unusual manner; and conduct themselves towards the Floridas by acts of violence, which not being founded in right, could have no other effect but to injure its lawful owners. Such an aggression gave the more surprise to his Majesty, because the U States seemed in this

measure,

measure, to avail themselves of their Treaty with France, as an authority for their proceeding, and because he could scarcely reconcile with the just opinion which he entertains of the wisdom and fidelity of the Federal Govt, a course of proceeding which nothing can authorize, towards a power which has long occupied and still occupies, one of the first ranks in Europe

But the Federal Govt having entered the path of negotiation, and the question which divided the two powers being cleared up, there is reason to hope that they will easily agree on the other points: and thus, his majesty, from the sincere interest which he feels for the equal prosperity of the two nations, ardently desires.

Accept, Sir, the assurances of my respt.

Ch. Mr Talleyrand.

Letter from Messrs Munroe & Pinckney to Mr Cevallos

Sir, Aranjuez Feby 5th 1805.

We have received your Excellency's letter of the 31st ult., in answer to that which we had the honor to write to you, on the 28th, and beg you to be persuaded, that we are highly gratified with the assurance it contains, that his C Majesty is disposed to meet the President of the U States, in such arrangements, on just and equal principles, as may be necessary to accommodate subsisting differences, and place the relations of the two countries on a basis of permanent friendship. Since our Govts are animated with these honorable views, it cannot be doubted that their object will be ~~effected~~ accomplished.

Your Ex observes, that it will be more proper to examine, previously and seperately, each point depending between our Govts, to establish their respective rights in each, and then proceed to the adoption of such a project of a convention, as may

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vide for the whole. In this idea, we perfectly agree. It was that principle as you justly observe, that our note of the was conceived; by it every topick of complaint, every ques- of interest is presented to your Excys view. It remains only to decide these several points and with them the fortune of the pres. negotiation.

The case of claims for injuries done to the citizens and subjects of either party, within the limits and jurisdiction of the other, being first, in order of time, ought to be first determined. As we presumed that this subject had been already sufficiently discussed, we thought it sufficient, in our former note, to submit such an arrangement respecting it, as we were authorised to propose. As however it seems to be your Excys desire, we shall not hesi- tate to communicate more fully, the views and sentiments of our Govt on this point, and the principles on which they are founded. It is the more necessary so to do, to free it from the com plexity, in which it may otherwise be involved.

It is known to your Excy, that by the convention of August 11th 1802, an immediate provision was not made for satis- fying the claims of their respective citizens and subjects, for all the injuries which they had received, in the course of the last war within the jurisdiction of each power, and for which they were responsible.; that it was not then possible, for the Pleni- potentiaries charged with that subject, to agree on a mode of arbitrating the claims, originating from the excesses of foreign cruizers, agents, consuls, or tribunals in their respective terri- tories, which might be imputable to their two Govts, and that in consequence thereof, it was agreed between them, to provide them, for the adjustment and satisfaction of such as were committed by their respective citizens and subjects only, re- serving to each govt its citizens and subjects their respective rights, with liberty to bring forward their claims, at such times, as might be convenient to them. Had that convention been

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carried into effect, and of course no satisfaction made for that por-
tion of the injuries complained of, it is proper that the whole sub-
ject should now be taken into view, and definitively settled. It
would badly comport with the spirit of the present negotiation,
whose object is to adjust every difference, and remove every cause
of inquietude, to leave any thing unfinished. Our Govt con-
siders its citizens as entitled to compensation for every injury
which they did receive, within the jurisdiction of his Majesty, con-
trary to the treaty between the U States and Spain, the law of nations,
and the principles of justice sanctioned by them, whether they
were committed by his Majesty's subjects and tribunals, or those
of any other nation. For all such acts ~~that Govt~~ government,
within whose limits they are committed, is alone respons-
ible, for over them has it the exclusive jurisdiction. A contrary
opinion cannot be advanced, without derogating from the
established doctrine of the law of nations, or rights of sovereignty
incident to each. It is a well established doctrine that no two na-
tions can, by their accord, or any arrangement between them,
change a law adopted by the whole. Such change of agreem.
by any two nations, can only operate as a special compact between
them, which finds an equivalent by the reciprocity of the stipu-
lation, or some other article of the treaty, but can never change the
relation of either, with other powers, or the rights and claims of
such other powers, on each of those nations. It is equally well es-
tablished, that protection is due, by every government, to foreign-
ers, within its limits, in return for which, they are entitled to
their allegiance, while they remain with them; as it is, that
such protection cannot be withdrawn, or the jurisdiction of
a foreign power be permitted, within its limits, to the in-
jury of a third power. A contrary doctrine supposes sepa-
rate and independent jurisdictions and governments
within the same limits, and altogether confounds the na-
ture of sovereignty, which is complete, absolute, and exclusive
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wherever it exists. It is proper to add, that this doctrine of the law of nations, so clear and explicit, is still further enforced by the stipulation of the 6th art. of the Treaty of 1795, between the U. States and Spain.

In the Project, which we had the honor to present to your Exy, you will find, it is intended to provide for the whole of these claims, whether the convention of aug 11th 1802, is carried into effect, or suffered to expire. In the former case, we should expect that an article be inserted in the proposed one, to provide for those cases which were unprovided for in that. We consider it our duty to inform yr Exy. that we cannot consent to any arrangement, which does not provide for the whole subject, having received orders to that effect, by a courier who has just arrived, with dispatches, as late as the 3d December last. We owe it to the spirit of candor, which is to prevail in this negotiation, to state to your Exy this fact, and we ask of you to inform us, in the same spirit, whether we are to expect the accord of your Govt to such an arrangement, as will be effectual to this object

That our Govt is entitled to expect an adequate compensation for the injuries which our citizens received by the suppression of the right of Deposit at new Orleans, is a point on which we did presume, there could be no doubt. The right to such a deposit is stipulated for ever to the U States, by the 22d art. of their treaty with Spain, either at N Orleans, or on some other part of the banks of the Mississippi, equally convenient to the parties. It is the obvious import of that article, that there never shall be a moments interruption, in the enjoyment of that right; a right which was so necessary to the interests of those dependent on it, and of course to the peace and friendship of the two nations. In exercising the right reserved to his C. Majesty, to change the place of deposit and assign some other equivalent establishment, it is equally the import of that article, that the whole arrange-

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ment should be made at the same time; that the same act which suspended the existing deposit, should open another; and that the Govt of the U States should be apprized of that intention, in due time, to prevent their citizens being injured by the measure, and also to be consulted on the place, which it was proposed to substitute to the existing one. In the proceedings which took place at N Orleans, none of those rules were observed, all respect for our Govt, and the rights of our Citizens was lost sight of. In short, had that act been imputable to his Majesty's Govt, the President could have seen in it, nothing short of a commencement of hostilities: as much so as if his troops had invaded their territories, or his fleets entered, in hostile array, any of their ports. But the President never considered that act as imputable to his majesty's Govt: he entertained too high a respect for the C. King to believe that it proceeded from him: he always considered it as the act of the Intendant, and was happy in the result, to find that such was the case. Nevertheless being the act of his majesty's officer, his govt is responsible for the injuries resulting from it. Your Excy will find that as early as March 25th 1803, the minister of the U States, accredited with his Majesty, claimed by order of the President, an indemnity for these injuries, which was repeated in subsequent notes of the 12th and 23d of April of the same year. It has not since been pressed, because by like order, the subject was reserved, with others, for final arrangement at the present occasion.

On the subject of limits, we have little to add to what we have already stated in our former note. By it a full view is given of what our Govt conceives to be its just rights in that respect. The Commissioners appointed by his majesty, for the demarkation thereof, can do nothing till some agreement be later place, between the two Govts, to fix the principle which is to guide them. They must remain inactive, until it be known

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that course, latitude, or meridian, or natural boundary, the demarkation is to be made. It is an important object, of the present negociation, to fix that principle. We take the liberty also to refer your Excy. to our former note, and the papers which accompanied it, for the views of our Govt., on the other topicks of a territorial nature. It is not in our power to add anything, on those points, to what we have therein stated.

The President being very desirous, with a view to the permanent harmony and welfare of the two nations, to adjust and arrange every question, and interest depending between them, and having given us full power for the purpose, awaits with anxiety the result. Having had the honor to submit to your Excy., as was agreed in our first interview, our propositions for the attainment of that desirable end, by which the subject is presented, equally in detail as in a general view, and having now given the further explanations, which were desired by your esteemed note of the 31 ult^o, we have only to request that you will give us your answer to the same. As every point has long been under the consideration of his majesty's Govt., we do not doubt that its mind is made up, as to the course the business is to take. It is in his majesty's power, by the answer which you give, to fix at once the relations which are to subsist in future, between the two nations. The U. States have done every thing in their power, which a regard to justice and the rights of their citizens will permit, to place and preserve them, on a most friendly footing, and we flatter ourselves that his C. Majesty, who is distinguished among sovereigns by his regard for justice and good faith, will meet them in such arrangements, as may be effectual to the object.

We beg your Excellency to accept the assurance of our distinguished consideration and esteem.

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We beg your Excellency to accept the assurance of our distinguished consideration and esteem.

His Excy
Don Pedro Cevallos
&c &c &c

Chas Pinckney
Jas Monroe.

Letter from Mr Cevallos to Messrs Pinckney & Monroe

Gentlemen Aranjuez Feby 10th 1805

I see by the tenor of your esteemed note of the 5th in reply to my note of the 31st ult. that we are of the same opinion, as it relates to the principle established, that to regulate all the points depending between the two Govts., it is necessary, first to establish the rights of each country, upon each one of the points in dispute, and then proceed to bring forward such negotiations, as the reciprocal interests of each country may require; and in consequence of the point relative to indemnifications for damages, occasioned during last war, by Individuals of each nation, being already so far advanced, that ought undoubtedly, first to occupy our attention. We will therefore, in this letter, discuss the points relative to indemnifications; leaving, for another opportunity, the discussion on the limits, which is so different, in its nature.

It is just that the losses, sustained by the Citizens or subjects of either nation, during the last war, contrary to the laws of nations, or the existing treaty, should be satisfied: and to this effect, the convention of the 11th august 1802. between the Plenips. of the two Govts was concluded, that the individual sufferers might find a quick and convenient redress. The intention of the King any matter, always unchangeable, and always conformable to the accredited honor and justice, which characterise him, is now the same that it was at the time that convention was concluded.

However some circumstances have taken place, between the time it was concluded and its ratification which will make several explanations necessary. In the first place it appears that various subjects of Spain, who had reclamations to make, having been injured by Citizens of the U. States, in consequence of this convention, came to Madrid from S. America, hearing that it was adjusted, but were obliged to return home, upon the report, that the Senate of the U.

U. States had refused to ratify it, during the session of 1803. It was but reasonable then that these vassals of his majesty should be informed, that the convention was ratified, that they might come forward to establish their claims, and for this, it was necessary to give them a certain space of time. His majesty proposed that this space of time should be agreed on between the two Govts, that the ratification might be known to all those interested.

It having come to the knowledge of his majesty, that Congress had on the 27th Feby. approved an act, by which it appears, that the President was authorised to establish custom houses in the territory of West Florida, and as this province belongs to his majesty, he having conquered it by the valor of his arms, not receiving it from France, of course could not retrocede it to her, and as he was in the quiet possession of the same, and still remaining possessed, his majesty could not but be offended at this account. Even should it be supposed, that the U. States have pretensions to this territory, it certainly was not the way to bring them forward, to proceed to acts of possession, and disturb a friendly nation in her just rights, by a solemn legislative act; such conduct must, consequently appear to his majesty very little conformable to the friendly relations of the two countries, and under such circumstances, it did not correspond with the respect due to his royal person, or to the nation which he governs, to ratify conventions, which are acts of political friendship, with those who had violated, in a solemn manner, the rights of his sovereignty, unless they should give satisfaction, or correspondent explanation. Thus it was just that he should ask this satisfaction, which was done accordingly.

It having also reached the kings notice, that the French Govt had satisfied the U States;

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the damages sustained, during the last war, by her privateers: it appeared not only unnecessary, but capable of producing confusion, to let the 6th art of the convention of August 1802 exist, by which, as his Majesty did not confess himself responsible for the damages occasioned by french privateers on the coast and in the ports of Spain, the U States did not strengthen their rights, which they thought they possessed, and to let it exist, would best expose the business to confusion. A desire therefore was manifested, that the 6th art. should be suppressed. For the purpose of making these circumstances known to the American Govt., his Majesty thought proper to suspend the ratification of the convention, and sent off a courier to the U States with letters to this Effect, to his Minister Plenipo. resident there.

Your Excellencies are acquainted, that your Govt being instructed relative to the observations, which were made to them, by his majestys minister, on this subject, agreed to fix a term, on which his majestys subjects, interested in the convention, might have notice of its ratification, and come forward with their claims before the Commissioners: and that each Govt should give orders to its respective citizens and subjects, not to commence their operations, until a convenient time should expire. Thus upon this article there remains nothing to do, but to fix this term, in order that the ratification of the convention may take place. In respect to the second particular, the reply of the american Govt was not so decisive and clear, as his majesty had a right to expect from a Govt so friendly. The act of Congress, of the 24th Feby 1804, in its obvious and literal sense, excluded the peaceable possession which his majesty had, and still has of E Florida: and the explanations of the President

of

of the U States, contained in his proclamation of the third of may, saying, that it was to be carried into effect within the U States, could not be considered, but as equivocal and susceptible of a double meaning; altho' the explanation of the Secy. of State of the U States, is somewhat more explicit, promising to leave every thing in statu quo, until an amicable arrangement should take place with Spain, and that the port of Entry mentioned in the act, would be established at Fort Stoddart, within the present territory of the U States. As his majesty desires to live in harmony with the U States, he wishes to persuade himself, that this explanation, altho' it does not give that satisfaction, which he had so just a right to expect, is in some measure satisfactory, so far as it respects his quiet possession of W. Florida. But could not his majesty complain, that satisfaction has not been given in explicit and solemn terms, for the publicity of a solemn act, whose obvious and litteral sense went to disturb his quiet possessions? On the other hand it is said, in a pacific manner, that the port of Entry shall be at Fort Stoddart. But how is it possible to arrive at Fort Stoddart, or go from thence to the sea, without navigating the rivers of [redacted] West Florida, traversing its territory, and disturbing the peaceable possession of his majesty? Thus his well founded motives of complaint, in respect to that act, still exist, and his majesty intends to keep them in mind, that satisfaction may be given by the U States. But as it relates to the ratifying the convention of august 1802. his majesty agrees, from this time to be satisfied, in this respect, and thinks in so doing, that he gives an unequivocal testimony of his friendship towards the U States.

Two obstacles to the ratification of the convention, being removed, we should now, only treat of what

relates to the 5th art. of the said convention. His majesty expressed a desire that this article should be suppressed, under the idea that its insertion would neither add to, or diminish the rights of the U States, or of his majesty. The clear and obvious sense of that article is, that the two contracting parties not having been able to agree relative to the indemnifications reclaimed by the U States, for damages occasioned by french privateers and tribunals, on the coast and in the ports of Spain, reserved to themselves, for a future day, the rights they might have, the U States to claim, and his majesty to shew that he was, in no manner bound to satisfy them. In this particular, therefore no right is given to the U States, or taken away from them by this article; and during the long space of time that has passed, between the adjusting the convention and its ratification, his majesty thinks, he has demonstrated, in a most evident and decisive manner, that he is not responsible for the said indemnification. It appears superfluous to permit the existence of an article, that can neither give, or take away any right, and which can only serve to produce confusion.

It was never the intention of his majesty, nor is it now, that the suppression of the said article should imply a renunciation, by the U States, of the right, which they think they have, to reclaim the said indemnification, but on the contrary, only that they should not believe that his majesty renounces, on his part, the right he thinks he has to resist the payment of it.

But should the American Govt. have any objection to the suppression of the said article, his majesty will not oppose its continuance; provided it be understood in the ratification, that by the insertion of the 6th art., it is not in any wise, to be inferred, that his

Majesty

majesty renounces the exceptions, which are occasioned by the convention, concluded between the U. States and France, the 8th vendemaire year 9. the context of the Treaty of the sale of Louisiana, concluded between the same powers: the affirmation of the French Govt., through the mediation of its ambassador, Lucien Bonaparte, that the damages sustained by the U. States, during the last war, were satisfied by France - and other strong reasons by which this pretention is opposed.

The American Govt cannot be surprised that his majesty wishes to make this explanation in his ratification, if it is recollected that such an explanation is, undoubtedly, contained in the 6th art. It mentions that his majesty reserves to himself the rights which belong to him: altho' it is not particularly or expressly mentioned what are the rights, which his majesty believes to belong to him: and at present, to avoid ambiguity, he thinks it necessary to explain, in the ratification, what these rights are, which are reserved, by the 5th art, and to make mention of them.

If the U States, on their part, wish to validate the rights which they think they have, to exact indemnifications, and also reserve them in the same article, it will then be beginning a seperate pretention, which in no wise ought to embarrass the regular course of the convention of 1802. It should be reduced to this question - is Spain responsible, or not, for the damages and losses occasioned by French Privateers and Tribunals, within her jurisdiction, during the last war? Spain believes that she is not responsible, and thinks she can demonstrate it to a certainty.

But as this is the second point in order, relative to the pretentions, which your Excellencies have manifested, it appears to me convenient to treat it seperately also, after the plan proposed,

posed in my note of the 31 ulto. In the mean time, referring you to what I have already written on this ~~subject~~ point relative to indemnifications for losses sustained by French Privateers &c to Mr Pinckney, under date of the 23d augst and 5th octobr 1803 - and to save your Excellencies the trouble of referring to the correspondence of that year, I take the liberty to enclose copies of them, and also of opinions of lawyers the most celebrated in the U States, who have been consulted upon this subject, and who unanimously declared that Spain was not responsible to satisfy the said Indemnities, and in which declaration these lawyers gave a proof of their rectitude, by their sincere confession of the slender foundation, on which these reclamations of their country rested.

I conclude this letter, by assuring Your Excies that his Majesty is disposed to ratify the convention of the 11th august 1802, in the form which has been mentioned, and that should yr Excies find no difficulty in so doing, as I hope will be the case, immediately after the ratification of the convention, we will proceed to the other depending points, and finally to those negociations, which the reciprocal interests of both countries may require.

I renew to your Excellencies the sincere demonstrations of my distinguished consideration &c

Pedro Cevallos.

Letter from Mess^rs Pinckney & Monroe to Mr Cevallos

Sir

Aranjuez Feby 12th 1805

We have received your Excellency's letter of the 10th ins. and have considered it with the attention which was due to an interesting communication, on a subject of great importance to the U States. By it we perceive, with

with regret, that an accord is not likely to take place between us, on the point to which it refers, since it appears his C Majesty is not disposed to make reparation to the Govt. of the U States for all the injuries which their Citizens received under his jurisdiction, of the character described in our former note, whether the same were committed by his Majesty's subjects or those of any other power. Having had the honor to inform your Exy that we could ~~xxx~~ accede to ~~xxx~~ no arrangement, which did not provide for every injury, it seems useless to protong the discussion on that point. We submit it to your Exy's consideration, on what we have already said.

Your Exy having expressed a desire to have the other points to be discussed afterwards, it is proper now, to proceed to them, and as we have already submitted the claims of the U States, for injuries arising from the suppression of the right of deposit at N Orleans, and as to boundaries, with our opinions thereon; and the wish of our Govt that the same should be amicably adjusted, we take the liberty to request that your Exy will have the goodness to state to us, what are the views of his majesty's Govt on these points, particularly as to the eastern and western limits of Louisiana, and how far his majesty is content to cede all his claims to the territory lying eastward of the Mississippi; whether he is willing to adopt the plan of a neutral territory, and in what extent. By being possessed of his majesty's sentiments and propositions on these points, we may be enabled to take a view of the whole subject, and see whether it is yet possible to come to some accord by some general arrangement, which, while it keeps out of sight questions on which unfortunately, there has been so much difficulty and disagreement, may in the end, do substantial jus-

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justice to all parties. Believing this to be the most effectual and speedy mode of concluding the business, we shall wait with anxiety and impatience, your Excys answer to this communication. We beg to repeat, we shall receive with consideration and weigh with attention whatever propositions, by his majesty's order, your Excy will do us the honor to communicate, having in view the amicable adjustment of the whole business.

We have the honor to request, that your Excy will accept the assurance of our high consideration and esteem.

Chas Pinckney.
James Monroe.

Letter from M Cevallos to Messrs Pinckney & Monroe.

Gentlemen

Aranjuez July 16th 1805

The contents of your esteemed note of the 10th on in answer to mine of the 10th have caused me some surprise, as well on account of not having found in it, as I promised myself, that your opinions are for continuing the discussion relative to reclamations of individuals of both nations, as of your determination to suspend the discussion upon the matter of this subject, unless the Spanish Govt will make itself responsible for the losses occasioned by French Privateers. It is my opinion, that as they are two species of reclamation so different in their nature, they can easily be divided into two, and that after the convention upon the first point is ratified, the discussion upon the second can take place, without inconvenience, and I am persuaded, that in justice to the individuals of both nations, who have received reciprocal injuries during the last war, we ought to terminate and satisfy, as soon as possible, those reclamations on which both Govts are agreed, without prejudice to, or discontinuing the examination of the other points.

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It appears, however, that your Excellencies wish to leave this point unsettled; and moreover refuse to enter into ulterior discussions on the point of indemnifications for injuries occasioned by French Privateers. In this state of the affair, and notwithstanding the manner in which your Excellencies have chosen to proceed, I cannot but repeat to you what the accredited honor of my post requires, to wit, that his majesty is now, and ever will be disposed to do justice to the Citizens of the U States injured by Spanish subjects during the last war, and to conclude and ratify any convention relative thereto. But as it relates to injuries occasioned by French privateers on the coast and in the ports of Spain, his majesty thinks he cannot accede, in this point, to the pretentions of the U States, because he believes that he has demonstrated in the most convincing and evident manner, that Spain is not responsible for such indemnifications.

Although in my letters to Mr Pinckney of the 28th August and 5th October 1803. and in the reply of the lawyers of Philad[a] and Newyork upon this ~~subject~~ point, of which I inclosed you copies in my note of the 10th inst. it is clearly demonstrated, that the Spanish Govt is not responsible for such indemnifications, I had never the less determined, that when (in the order proposed) we should have arrived at this second point, of the pretentions of your Govt, to have extended my observations thereon, so as to demonstrate the solid reasons, by which the Spanish Govt could refute such pretentions. But as your Excellencies believe that it is not necessary, or that it is incompatible with your instructions, to lose your time in such discussions, I do not wish to molest your attention, and only again refer you to the letters before mentioned, and also to the reply of the American Lawyers. But your Excellencies will permit me to make known

52 known to you, how far the French Govt is persuaded of the unfound-
ed right, which the American Govt has to reclaim any thing from
Spain, for damages occasioned by French Privateers within
the jurisdiction of Spain, and of the surprise which the notice of
such a demand from the U States, has occasioned to France.
For this purpose I shall copy for the information of your
Excellencies, the expressions made use of in the latter part of a
note under date the 27th July 1804, written by the French
minister of foreign affairs to the Ambassador of his Majes-
ty at that Court:

The French Govt erroneously believed that
Spain had gone so far in her condescentions to the U States,
as to make herself responsible for the said indemnification,
and in consequence, the French ministes of foreign affairs
explained himself in the following manner.

"And certainly, if I had been informed that the ministers
"of his C majesty, had carried their condescentions towards the
"U States, so far as to engage Spain, to be responsible to it for
"the indemnities for pretended violations made by France.
"I should, most assuredly, have received an order from my
"Govt to manifest the discontent which France would have
"experienced, by a condescention so improper, a discontent
"that would have been more strongly expressed towards the
"Govt of the U States than towards Spain. Besides the ex-pla-
"nations which have already been given to your Court on
"this subject, (alluding to the communication of the Am-
"bassador Bonaparte) and those which I have authorised
"to be again made to the Govt of the U States, by the
"Chargé d'affaires of his I. majesty, ought to leave the
"presumption, that from the opinion which his majesty
"has adopted on this ~~subject~~ question, that as it has already
"been the subject of a long negotiation, and of a formal con-
"vention between France and the U States, it cannot again

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The expressions of the French minister are clear and pointed, and portray in a convincing manner, not only that France has satisfied the U States for the damages which they pretend to claim from Spain but also the just surprise which has been caused to his Govt by the notice of such pretentions on the part of the U States pretentions which are directed to obtain a double indemnity for one and the same debt.

Under this supposition, and continuing the order we proposed, to fix in the first place, the rights of each nation upon each one of the points in controversy, I will proceed to that of indemnifications, which your Excellencies reclaim for the suspension of the right of deposit at N Orleans. To determine whether Spain is, or is not, responsible for the damages, which your Excellencies suppose to have been sustained by the Citizens of the U States, by the suppression of the deposit at N Orleans, in consequence of the edict of the Intendant of that City, it is necessary to examine what are those damages, and from whence they have arisen. The Edict of the Intendant of N Orleans, suspending the deposit of American produce in that city, did not interrupt, nor was it the intention to interrupt the free navigation of the Mississipi, consequently these pretended injuries are reduced to this small point, that for a short time, the vessels loaded in the stream, instead of taking in their cargoes at the wharves; This obstruction will appear still less, when we consider, that during a great part of the time that the deposit was suspended, it was in the middle of winter; when the exportation of produce from the western parts of the U States, by the Mississippi, is very inconsiderable. If the erroneous opinion which were formed in the U States, upon the occurrences at New Orleans, if the complaints published in the papers of your country, as false as they were repeated, that the navigation of the Missis-

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sippi was interrupted: if the virulent writings, by which the public mind was heated, and which led to compromise the american Govt. and tarnish the good name of that of Spain, were causes that the Inhabitants of the ~~United States~~ western territory of the U States. could not form a correct idea of what passed at N Orleans. and if in this uncertainty they were disappointed in the extraction of their produce, or suffered other inconveniences, they ought to attribute the same to internal causes which originated in their own country, such as the writings before mentioned, filled with inflamatory falsehoods, the violence of enthusiastic partizans, and other occurrences, which on those occasions served to conceal the truth. The Govt of Spain so far from being responsible for the prejudices occasioned by these errors and erroneous ideas, ought in justice to complain of the irregular conduct pursued by various writers and other individuals of the U States, which was adapted to exasperate and mislead the public opinion, and went to divulge sentiments the most ignominious, and absurdities the most false, against the Govt of his majesty and his accredited good faith.

Estimate the damages which may have arisen to the Citizens of the U States, by their erroneous conceptions of what took place at N. Orleans, and they will be found to be no other than the trifling inconvenience before mentioned, of their ships loading in a situation not so commodious, an inconvenience for which the Govt of Spain is not responsible, (neither ought it to be) and which does not in any manner merit to be mentioned; more especially, when it is considered that those who experienced it, had been enjoying the rights of deposit, for four years more than was stipulated in the treaty, and this, notwithstanding the great prejudice it occasioned to his Majesty's revenue, by making N. Orleans the centre of a most scandalous contraband trade; the profits of which, it is not improbable, but that some of those individuals have

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have in part received, who now suppose themselves injured by said trifling inconvenience.

After four years more than the treaty expressed, towit, three years, making in all seven years, the Intendant thought that it was his duty no longer to permit a deposit, which gave an opportunity for carrying on a fraudulent commerce, prejudicial to the interests of his majesty, for which he was accountable; he thought it was necessary that at Orleans should no longer be the place of reproach, on account of those inconveniences, and in consequence prohibited the same.

Before proceeding to such a determination, the Intendant ought to have asked instructions from his Govt.; but perhaps he thought he might ~~[illegible]~~ compromised by delaying this measure. His majesty as soon as he was informed of the edict prohibiting the deposit, was pleased to revoke it, wishing thereby to give another testimony of his friendship for the U States. What, in strict justice, was the deposit at N. Orleans? A generous and gratuitous concession of the King my master for three years. It is true that his majesty agreed in the 22d art. of the treaty, to continue the favor of the deposit, if it should be found that no inconvenience ~~should be found~~ resulted from it, and of this, no person was a better judge than his majesty, and his agents, in that Colony. If the U States desired, after the expiration of three years, to continue the deposit at N. Orleans, on a less precarious manner, or to have obtained another place for the deposit, they ought to have solicited the same; for it is more natural, that those who aspire to a favor should solicit it, than that those who have the possession of the same should propose the cession or continuance of it.

By this, it is not intended to support the edict of the Intendant, his majesty has disapproved the act, giving there-

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by a proof of his friendship for the U States; however this subject ought not to be treated on, in the light of exacting indemnifications resulting upon it, but should be examined only as a strict justice, the Intendant, or the Spanish Govt could, or could not prohibit the deposit at N Orleans, four years more than the three stipulated in the treaty, having expired, and during which time the royal treasury experienced the most serious prejudice. Most certainly the Intendant had a right to prohibit the deposit, and consequently the Govt of Spain cannot be responsible in this point: and this reflection acquires a double weight, if we consider the trifling inconvenience occasioned by the true effect of the said edict, of its short duration, and on the other hand the serious damages which the Kings revenue has experienced, by the continuance of the deposit for four years over and above the term stipulated in the treaty. I think your Excellencies will be convinced of the force of these arguments, and it is to be desired that in consequence of what I have said to your Excellencies and to Mr Pinckney in particular, upon the various points of indemnifications restrained by your Govt, we may now be of the same opinion, and proceed to fix the rights of each nation, on the other question, relative to the limits of Louisiana, which is in its nature different, because to leave the first points in the dispute undecided on, and even without discussing their merits, cannot but augment the confusion of the business for it is very difficult to settle, in an amicable manner the whole of the points in dispute, there being an essential difference of opinion on some parts of them.

I am also disposed to enter into a discussion upon the limits of Louisiana, but in the manner proposed by your Excellencies, and adopted by me in my note of the 31st ult°, to wit, to fix in the first place the rights of each

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With Demonstrations of my most distinguished consideration and respect I renew &c

Pedro Cevallos.

Note from Messrs Pinckney & Munroe to Mr Cevallos

Aranjuez Feby. 18th 1805.

Letter from Mr Cevallos to Messrs Munroe and Pinckney

Aranjuez Feby 24th 1805.

Gentlemen

In my note of the 16th inst I informed you Exs, that after having examined the points relative to the indemnifications claimed by the U States, I should be equally disposed to enter into discussions upon the limits of Louisiana. In this mode of proceeding, I follow the plan laid down in your Exs last note, to wit, first to fix the rights of each nation, and then proceed to such negotiations as may be proper for both.

On my part, I continue to follow this plan, a plan which is so conformable to the wishes of both govts, and so well adapted to the purpose of terminating amicably their differences. We will now begin the examination of the limits of Louisiana

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whose boundaries, by their nature, are divided into parts of: sentially distinct, and for this reason we will examine them seperately. They are the limits of Louisiana on the east, or side of the Floridas, and its boundary on the side of the in: terior provinces of New Mexico. The first shall be the object of this letter.

If the declaration of the act of Congress of the 24th Feby. of the last year had not anticipated the declaration of the pretentions of the U States, to extend the limits of Louisiana on the east, as far as the River Perdido, including within them the greater part of W Florida, I should have been sur: prised to have seen this pretention manifested in the foot note of your Excellencies. It appears, as if the title alone of the treaty, by which his majesty retroceded Louisiana to France, and to whose title the U States have succeeded, was sufficient to banish even the most distant idea that his majesty has by it ceased to be the Proprietor of W Florida, a province which Spain never received from France; for the posses: sion of which she was only indebted to the valor of her arms, many years before the acquisition of Louisiana: & never having received it from France, it could not be in: cluded in a Treaty founded entirely on the principle of retrocession. But as notwithstanding this reflection so ob: vious and clear, the U States pretend to stretch the limits of Louisiana to the river Perdido, I find myself under the necessity to manifest more fully, the unshaken and solid principles, by which his majesty founds his right to the possession of the province of W Florida.

By the treaty of State of Louisiana signed at Paris, the 30th April 1803, the U States have acquired the rights which France held, in vir: tue of the retrocession of that province, made to her, by his C Majesty at St Ildefonso the 1st october 1800. The consider: ations, which ought to serve to found the pretentions of the

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U States, cannot be any other than the 3d art. of the treaty of retrocession, which is in these terms; (see 3d art of 2d Treaty)

The first thing which calls our attention, in examining the said article, is the expression retroceede, and which also seems to denominate the Treaty of St Ildefonso called the Treaty of retrocession. The sense of this expression is obvious, it cannot be misinterpreted or confounded: its meaning is evidently this, that his C Majesty returns to France the territory which he had received from her. Now let us examine if France put Spain into possession of the territory which occasions the present discussion. It is without doubt, that by the Treaty of 1763, it was agreed that the demarcation between France and England of their possessions in that quarter should be, by a line through the middle of the rivers Mississippi and Iberville, and the lakes maurepas & Pontchartrain to the sea; consequently France ceded to England the river and port of Mobile, as well as all her other possessions on the east of the Mississippi, the Island and City of New Orleans excepted. From that time this territory formed a part of the possessions of the English, under the name of W Florida, and France lost all claim and title to it. Thus it became an English possession, and during the war of 1779, Spain conquered from England all that the latter possessed, by the title of W Florida; and ~~France lost all claim and title to it~~. In the definitive treaty of 1783, England ceded to Spain, under a guarantee both Floridas. It is then seen by this plain and simple exposition of facts that the title by which Spain had possession of the territory on the east of the Mississippi called W Florida, was acquired to her; by the right of conquest, at the expence of her treasures, and the blood of her soldiers; and also by the cession made by England, under the treaty of 1783. From that time, the title of Spain to that territory, is entirely in-

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independent of France, and of the cession of Louisiana made by her, and consequently Spain could not give back to France what she did not receive from her. We will continue the discussion on the 3d art. of the Treaty of St Ildefonso.

In the first place it is said, that his majesty retroceded Louisiana, "with the same extent of Territory which it now has in the hands of Spain"; this expression confirms most explicitly, the right which Spain preserves over the said territory to the east of the Mississippi; because it is well known that Spain possesses W Florida not as Louisiana, but as Florida. This circumstance so notorious, is confirmed by the title of the Govr of the Havanna, who in their character of Captain Generals, have always governed under the title of Captains General of the two Floridas; and by all the most authentick public acts, which have passed since this majesty has been in possession of the said territory, this title has been preserved; It will be sufficient to mention the Treaty, concluded between his Majesty and the U States in 1795, in the second article of which we read the following conclusive words; "That the southern limits of the U States, which seperate them from the Spanish colonies of east & west Floridas". It is then proved in the most authentic manner, the seperation of west Florida from Louisiana, and their different appellations: and it is a thing generally understood, that names of countries bartered ceded or retroceded by a Treaty, should be considered according to the general acceptation existing at the time of making the treaty; it is clear that if in that of St Ildefonso, it had been wished to include W Florida, it would have been expressly mentioned by the name which authenticated it, and under which it is generally known; for it would have been ridiculous to have given the name of Louisiana to that territory, because it had once formed a part of that Province: as

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it would be at present to call the State of Ohio. Louisiana.
quently no doubt remains, that as his majesty was in
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Florida, it could not be included in Louisiana, because
it was in the hands of Spain on the 1st October 1802, the epoch
of the treaty of St Ildefonso. and because the beforemen-
tioned clause of the 3d art. in its natural and explicit
sense excludes France from a right to Florida.

The 2nd clause or expression of the same article,
"and which it had when France possessed it", alludes only to
the manner in which France possessed it in 1763, when she
delivered it to Spain; for if any other sense is given to it,
that expression cannot be consistent with the anterior, which
says, "with the same extent which it now has in the hands of
Spain"; for if in the 2nd clause a greater extent should
be given to Louisiana, than that which it had in the hands
of Spain, how could it be "with the same extent it had in the
hands of Spain"? It is repugnant to common sense,
that the delivery had to be with the same extent, and with
greater extent, it being with more, it could not be with
the same. It is then clear, that the obvious sense of both
clauses together, and the only one which is not absurd and con-
tradictory, is the following - That Louisiana was retroceded with
the same extent it had in the hands of Spain in 1800, and that which
it had when France possessed it and gave it up to Spain. The ex-
pression "when France possessed it", not mating any fixed time,
it is clear, that it ought to be determined by the clauses of the
same treaty, and interpreted in terms which will not give
an absurd sense, or contradict the other expressions of the
same article. Since, if we should admit the expression, "when
France possessed it," in all its latitude, it would result, that
Spain had obligated herself, by the 3rd article, to give France
a part of the state of Kentucky, all the State of Ohio and terri-

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so as it would be at present to call the State of Ohio, Louisiana. Consequently no doubt remains, that as his majesty was in possession of the said territory, under the name and quality of W Florida, it could not be included in Louisiana, because it was in the hands of Spain on the 1st October 1802, the epoch of the treaty of St Ildefonso, and because the before-mentioned clause of the 3d art in its natural and explicit sense excludes France from a right to W Florida.

The 2nd clause or expression of the same article, "and which it had when France possessed it", alludes only to the manner in which France possessed it in 1763, when she delivered it to Spain; for if any other sense is given to it, that expression cannot be consistent with the anterior, which says, "with the same extent which it now has in the hands of Spain"; for if in the 2nd clause a greater extent should be given to Louisiana, than that which it had in the hands of Spain, how could it be "with the same extent it had in the hands of Spain"? It is repugnant to common sense, that the delivery had to be with the same extent, and with greater extent, it being with more, it could not be with the same. It is then clear, that the obvious sense of both clauses together, and the only one which is not absurd and contradictory, is the following - That Louisiana was retroceded with the same extent it had in the hands of Spain in 1800, and that which it had when France possessed it and gave it up to Spain. The expression "when France possessed it", not making any fixed time, is it clear, that it ought to be determined by the clauses of the same treaty, and interpreted in terms which will not give an absurd sense, or contradict the other expressions of the same article. Since, if we should admit the expression, "when France possessed it," in all its latitude, it would result, that Spain had obligated herself, by the 3d article, to give France a part of the State of Kentucky, all the State of Ohio and territo-

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ry of Indiana, and that France should hold a right by the Treaty of St Ildefonso to resell the said States as a part of Louisiana "when France possessed it," and also to prohibit the navegation and deposit to the americans, because that France had to receive Louisiana "as she possessed it". Absurd reasoning, which does not merit to be refuted, which arises in consequence of the undefined latitude which is pretended to be given to "when France possessed it". It is a principle incontrovertible, of the law of nations, that treaties should not receive an odious or absurd interpretation, when they can admit of a clear and simple one. It would be both odious and absurd to suppose that Spain had ceded Louisiana to France, with all the extent with which she had possessed it, at an epoch anterior to the treaty of 1763, for it would thence result, that she had engaged to give to France part of the U States, as before mentioned: and it would be equally absurd in France, because she abandonned, by the treaty of 1763, all her rights and pretentions to the Country east of the Mississippi to Great Bretain, and by her Treaty of 1778 with the U States, she was bound, in such manner, that she could not acquire a territory east of the Mississippi without the consent of the U States, and only by that of conquest. At the same time, it would do very little honor to the U States to maintain an interpretation, the consequence of which, would make it appear, that that part of the U States, formed by the Ohio, a part of Kentucky and Tenessee might be comprehended, and been the object of stipulations and cessions, between two foreign powers such as France and Spain, who have no right to meddle with them.

The 3d clause, of the 3d art. of the Treaty of St Ildefonso, is still more decisive, and offers other arguments in favor of Spain, since it says, "such as it ought to be according to subsequent treaties between Spain and other powers".

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The Treaties here alluded to, are not, nor can be, others than those of 1783, between Spain and England, and 1795, between Spain and the U States. By the first his majesty acquired the territory east of the Mississippi, under the name of W Florida, and consequently to be "as it ought to be," since the treaty of 1763. is with the exclusion of a territory acquired at that period, and with a name so different. By the second his majesty permitted the deposit, and fixed the limits between Louisiana, the Floridas, and the U States; to be "as they ought to be" after the treaty of 1795. is with the exclusion of France to the rights of the U States, in this treaty. ... And thus as the treaty of St Ildefonso could not affect the rights, which the U States acquired by that of 1795, so neither did it affect, or could it affect, the rights acquired by his Majesty, by the treaty of 1783, with England.

It would be unnecessary to accumulate more proofs, in a case, so clear in its nature: but I cannot but mention to your Excellencies, in support of the unquestionable right which Spain has to the territory in question, the respectable and undeniable opinion of the celebrated Geographer, of the U States, mr Ellicot, whose knowledge and talents occasioned his being named by the Govt of the U States, to run the line of division between the said States, & the Spanish Provinces on the south of them, according to the Treaty of 1795. This person, who has perhaps more knowledge of what relates to the territory in question than any other, in the preface of his work published in 1803, under the title of the "Journal of Andrew Ellicot, late commissioner, on behalf of the U States" &c &c, speaking of the sale of Louisiana, made by France, he says dated Lancaster 22nd July 1803 "It does not appear by the cession of Louisiana to the U "States, we obtain the whole of both sides the Mississippi, for "by consulting N°5 of the maps, it will be seen that the island

"land of N. Orleans, which lies on the east side of the Mississippi,
"only extends north to Mainshak: from thence northerly a-
"long the east side of the River, to the southern boundary
"of the U States, is still held, by his B. majesty, as a part
"of W Florida". (He again says) "The important and safe
"harbours in both the Floridas, still remain in possession
"of his C Majesty". These expressions so notable, corrob-
rate and confirm, in the most positive manner, the in-
contestible right of his C majesty to all the territories which
are on the east of the Mississippi, under the line of the
31d excepting the Island of N Orleans.

Besides what has been said, it cannot be doubt-
ed that the Treaty of retrocession of 1800, was a contract between
Spain and France, and consequently it was for France to
have represented, in case she had not received all the ter-
ritories, expressed in that stipulation. And it is certain
that the prefect Laussat, charged to carry the Treaty into
effect, being perfectly instructed in it, and being possess-
with the intentions of his Govt, has expressed himself satis-
fied with the manner in which it was carried into effect,
without his having been put into possession of the ter-
ritory in question. Thus the U States, having succeed-
ed to the rights of France, have no ground to pretend, to
what France has thought did not belong to her.

I could by an accumulation of various
proofs, establish, in different ways, the incontestible
right of the King, my master, to W. Florida; but it
appears to me, that what has already been said, is sufficient,
so as not to leave a doubt in the mind of any one, who will
examine the question impartially, not even in the mind
of mr Ellicot, who, notwithstanding the love he bears to the
Govt that employed him, and in whose favor he has
wrought, could not do less than give that just homage

to

truth and justice, which they merit.

With assurances of my distinguished consideration, I remain &c

Pedro Cevallos

Note of messrs Pinckney & Munroe to mr Cevallos.

Aranjuez Feby 25th 1805.

Letter from messrs Pinckney & Monroe to Mr Cevallos.

Sir Aranjuez Feby 25th 1805.

We have the honor to acknowledge the receipt of your Excellency's letter of the 16th inst., whose contents and tone have equally surprised. We should consider ourselves failing in the respect, which we owe to our Govt, if we did not express our sentiments on it, in both respects. In so doing it is necessary to review concisely what has already passed between us.

Yr Excy will recollect that in our interview which took place immediately after mr munroe had the honor of being received by his majesty, that the objects of his mission were fully communicated, and that it was agreed that we should present to yr Excy a project for the adjustment of every point, to which you were so good as to promise an early and explicit answer. In compliance with that arrangement we did present to yr Excy. on the 28th ult. the project

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which we had promised. in which we stated fully, the views of our Govt.; with its opinion of the rights of the U States on each point, which we illustrated. in those cases which had not been already exhausted. and of course where illustration could be necessary, or was even likely to be agreable. We had a right to expect, and we did expect an answer equally full and explicit to every point. In this however we were disappointed. In the claims for indemnity for injuries, your Excellency thought proper, it is true, to intimate, in respect to spoliations, that his majesty was willing to ratify the convention of Aug. 11th 1802, after the obstacles which occasioned its postponement should be removed: and in respect to that arising from the suppression of the deposit at N Orleans, that Spain was not accountable for them, but without giving any reason for the assertion. On the great question of territorial rights and limits, as on the mode of providing for their security, and with it, the peace and harmony of our Govts; On which we did ourselves the honor to make to your Excy. what we deemed liberal and salutary propositions, we received what could not be considered as an answer, since it neither rejected our propositions, offered others, or expressed any sentiment respecting them. If it was proper to open the whole subject, as was admitted in our first interview, it was equally so to answer it. And that it was proper so to do, is not only proved by the agreement referred to, but by the situation of the two countries at the present time. The several points are, it is true, in their nature distinct, yet it is obvious that the whole must be brought into view and settled together. We do not perceive the means, nor has your Excy suggested them, of adjusting a part, and leaving the others unfinished.

Although we could not but be hurt at receiving

ceiving an answer so vague and unsatisfactory, to our selves, yet we deemed it inconsistent with the respect we owed to both our Govts, to your Excy, and to ourselves, as well the spirit of conciliation which we wish to preserve thro' the negociation, to express that sentiment. We did more, we met the invitation which your Excy seemed to give us, without however furnishing the example, by proceeding to explain further the views of our Govt, and illustrate its rights on the two points, on which you had given any opinion. The claims to compensation for injuries arising from spoliations on our commerce, and the suspension of the right of deposit, at N Orleans, had been long before our govts & their merits were well understood. That for spoliations more especially, had been so fully and amply discussed, both here and in the U States, as to leave no doubt that such discussion was not necessary to enable either party to make up its mind on it. By entering into it therefore, we gave your Excy a convincing proof of our desire to accommodate with your wishes, on the hope that it would produce on your part a correspondent result. We flattered ourselves, that as the whole subject was again presented before you, in all its points, with the explanation you had invited on the two first, we should have received a full answer from his majesty's Govt on each, and of course on the whole. In this however we were again disappointed. We received in substance only the same proposition which had been made to us before, which we had, as we presumed, clearly proved to be incompatible with the rights of the U States, and the principles of justice, and which, as we had taken the liberty to inform your Excellency, the repeated and recent orders of our Govt prohibited us from accepting. Under these circumstances, we considered it our duty to acquaint your Excy respectfully that we deemed it useless and improper to prolong the discussion on that point, at the same time requesting you to be so good as to communi-

municate the sentiments and propositions of his majesty's Govt on the whole subject, that we might see whether it would be possible, while we avoided discussions of an irritating tendency, to adopt some plan, which by a general arrangement, might provide for this as well as the other objects, and thereby render justice in the most acceptable manner to all parties. To this proposal the most respectful and friendly that we could make, one which is warranted by the uniform practise, in similar transactions and cases, of all powers, especially the most friendly to each other, we received a letter which is addressed in a very different spirit. By it we are charged with refusing to discuss points, which we had already discussed, and on which we had given to your Excy our ultimate opinion; our Govt is charged with the dishonorable attempt to obtain a double indemnity for the same object: many of our citizens are denounced as unprincipled contrabandists, and others, of most the whole nation, as entire slaves to partizans, calumniators, and disfigurers of truth. for in respect to the suspension of the deposit at N Orleans, all america had but one opinion and spoke with one voice: in the article of the press, the freedom of our internal institutions, which all nations have a right to regulate, and do regulate as suit themselves, is attacked. The right of the Intendant, ——— to suppress the deposit at N Orleans is justified, and the right itself though stipulated and made permanent by a solemn treaty, a stipulation which had its equivalent in the other articles of the same instrument and was otherwise prompted by the law of nature, of reason, and the interest of Spain, is represented as a gratuitous or charitable donation to the U States, which his majesty had a right to suppress, and keep suppressed till their Govt should implore him to open it to them again.

again. On this note, we think proper to observe that it was impossible for us to have received one which could have been more unexpected. It was the more so, because in all our communications we had been studious, in obedience to the orders of our Govt., orders which we executed with pleasure, to manifest ~~to manifest~~ its high respect for his C. Majesty, and we were not conscious of having failed in that which we entertained for your Excy.

We forbear to make any further comment on the tone of this last note at present, because it is probable it may convey sentiments which are not entertained. We are aware that in the zeal of an important discussion, incidents of that kind often occur, and are prompted by patriotic motives, even with those who are the most guarded. We trust that the character of the American Govt and people, which is well known, and we flatter ourselves, held in just estimation, by other powers, will not be injured by the spirit of conciliation and moderation which animates us on this occasion. On the presumption therefore that no premeditated outrage was intended, and with a sincere desire to adjust amicably the differences subsisting between our countries, we will proceed to answer the several objections urged in your Excy's last note, to what we consider to be the just claims of our Govt.

Your Excy insists that his C. M. is not answerable for the spoliations that were committed on the commerce of the U States, within the jurisdiction of Spain, in the course of the last war, by French cruisers and Tribunals, and you urge in support of the doctrine; First. That those claims were catisfied by the Treaties which have taken place between the U States and France. Secondly; That Spain was not in a situation to prevent those aggressions on our com-

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commerce. We will examine with candor both these pretentions, which we are persuaded, it will be easy to shew are unfounded. Two treaties have latterly taken place, between the U States and France. The first on the 30th Sept 1800, the 2nd on the 30th April 1803. Permit us to ask by which of these was such extinguishment made? If by the first, it is not likely that the subject would have been thought of in the second: if the second is relied on, it is an admission, that it was not done by the first. Your Excy seems disposed to rely on both, which cannot be considered otherwise than as a proof that neither alone has done it. It is equally obvious, that it was not done by both together, since, whether we examine them seperately or together, they expresly preclude the idea.

By art 2nd of the convention of 1800, between the U States and France, it is agreed, for certain considerations therein specified, to postpone their respective claims to indemnities to a more convenient time, and by the ratification of that convention those claims were relinquished forever, on both sides.

By art 5th of the same convention, it is agreed that certain specified claims or debts should be recoverable in the same manner as if no misunderstanding had taken place between the parties.

By articles 1st & 2nd of the second convention entered into on the 30th of April 1803 provision is made for the payment of the debts which were compromised under the 2nd and 5th articles of that of 1800, whose amount, it was stipulated, should not exceed twenty millions of livres.

These are the only articles in those ~~treaties~~ conventions which have any reference to the point in question. If the claim of the U States on Spain, for French spoliations and condemnations within her jurisdiction, was satisfied by the Treaties

treaties and conventions between the U States and France, it was by one of these articles, We will examine first that pretention, as founded on the second article of the convention of 1800. On a view of that article, and indeed of the whole instrument, we find, that it regulates only questions and interests that were depending between the U States and France. A misunderstanding had unhappily taken place between those powers, and it was the object of this convention to adjust it. Not the most distant allusion is made, in any article of the convention, to Spain or her concerns. Had Spain then been a party to that misunderstanding, she could not have been benefitted by that convention. The reason is much stronger why she could not, as she was not a party to it, since there was no variance, and there certainly was none between the U.S. and Spain. it is more evident that it could not have been in the contemplation of the parties to adjust what did not exist. It may be added that if it had been contemplated to release Spain from any obligation which she owed to the U States, from any just claim which they had on her, the release would have been compleat, it would have extended to every object, especially of the same kind, and settled every ground of difference between them. The fact is however admitted by all parties to be otherwise. It has never been contended by Spain that the spoliations which were committed by her own people were satisfied by that convention. Hence it is clear that Spain was not discharged from the claims of the U.S. for french spoliations committed within her limits, by the second article of the convention of 1800. It is equally clear that she was not discharged by the 1st & 2nd art of the convention of 1803. It is evident on a slight view of these last articles, & indeed of the whole instrument, that they had no other debts in contemplation, but those which were made recoverable by the conven-

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vention of 1800. that in truth the convention of 1803. and no more than provide funds for the payment of the debts that were due under that of 1800. Thus the claim of the U.S. on Spain for these spoliations was not discharged by this last convention. Other circumstances prove clearly not only that this claim was not discharged, but that a provision or discharge of it by these conventions, was not even contemplated by the parties to them. It is very well known that the Govt of the U.S. never made ademand on that of France for the payment of these spoliations; that it always claimed the payment of Spain and her only, considering her only as responsible for them. It is not presumeable that the parties should intend to provide for a claim not made, for a debt not supposed to be due. The conduct of Spain thro' the whole of this epoch, corresponds with that of the other powers in this respect. The ministers of the U.S. at Madrid at Paris, pressed the Govt of Spain for an indemnity for that and other claims. Had it been contemplated by Spain to obtain her discharge thro' the medium of France, her Ambassador, would have been seen in both those negotiations especially that of 1803. and had he succeeded a provision to that effect on explicit terms, would have been introduced into that convention. But nothing of this kind took place. Indeed the success of such an attempt was so improbable, that it is not presumable that the idea ever occurred. with the claims that were in the contemplation of the parties, and for which France was truly answerable, it was difficult to accomplish an amicable adjustment of their differences. Had these been swelled by the addition of those on Spain, it is probable that the negotiation would have proved abortive. It was not till some years afterwards, that this pretention on the part of Spain was heard of, and than it was founded on a pretext as singular as it was unexpected; that of her being

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released by a Treaty between the U.S. and another power, in which she was not even mentioned. With respect to these claims having been discharged by the convention of 1803, it has already been shewn, that that convention could not by any possible construction be considered as having any reference to the subject: it may be added that the funds provided by it were not only intended for other objects expressly stipulated, but that there is reason to think they are not commensurate with those objects.

As to the pretention that Spain was released from this claim, by the release made to France of other claims of a similar nature, it is easy to prove that it has not the slightest foundation. It has already been shewn, that France was not released from this claim, because it never was made on her. We shall proceed to shew, that it was properly made on Spain, and that she was and still is answerable for it.

It will not be controverted that it is the duty of every independent State to observe that the citizens or subjects of every other independent State are secured in their intercourse with it, in the enjoyment of all the rights and priviledges to which they are entitled by the law of nations, and treaties with such power. This principle forms the basis on which the whole system of publick law rests. It is the standard by which every question between independent powers must be examined, and their respective rights, in all cases settled.

It is equally true that for every violation of those rights, on the citizens or subjects, of one independent State within the jurisdiction of another, the Govt of the latter is responsible, whether the same be committed by its own people, or those of another power. The reason of this rule is obvious. Every Govt being sovereign within its

its own limits. the subjects of every foreign power are regarded thereafter the time, as its own subjects, and as such it is responsible for their conduct. While such government retains its independance, it cannot divest itself of this duty, or the obligation to discharge it. The principle is the same whether such acts be performed by the private individuals of a foreign power, or its publick agents. In the latter case indeed, the claim to an indemnity by the party injured, on the government under whose jurisdiction it was received, is stronger, since, being done under colour of publick authority, and especially if persevered in, they become the acts of the govern.t itself. These principles are too well established by writers on the law of nations, to require further illustration.

Hence it appears clearly that Spain was answerable for French spoliations committed under her jurisdiction, in the same manner as if they were committed by her own people. To her then the American Govern.t was bound to look for reparation. Whether France was eventually liable, or not, it is not material to enquire. Where was the injury rendered? What government had cognizance of the case? Whose laws were violated by the proceedings? or by whose laws was the injury permitted, or what amounts to the same thing suffered? By that Government is the reparation due, and by it ought it to be made. If France has actually paid any of those claims, such payment will of course, be considered as a discharge. That the suffering individuals may have applied elsewhere and every where to save themselves from ruin, or rather retrieve themselves from it, as possible: But neither will the course which their distresses may have compelled them to pursue, nor will the fortune of some particular applications; in case any have succeeded, affect the merits of the present question. It is known that the sentiments & conduct of the American government have invariably been the same on it. It has thought in every stage, that Spain was responsible for those spoliations, and it has uniformly sought the indemnification of her and of her alone.

If France was responsible for those claims, the injuries having proceeded from her Officers and Agents, it was only eventually, in case satisfaction was not obtained of Spain, for as already shewn, having been committed

under the jurisdiction of Spain, where she only had authority, she redressed her
strictly due by her for injuries committed by a Spaniard to an American citizen at
Paris, we should not think of making application for redress to the government
of Spain, nor for like injuries committed at Madrid by a French man, to the
govern.t of France. The application in both cases would be to the Gov.t
having jurisdiction of the territory where the offence was committed, and of
course cognizance of the case; to the government whose laws were offended, &
who had the power of redress. If France was eventually answerable to us for
those claims, which we deny, we admit that she was released from them,
by the convention of 1800. But can Spain who was answerable primarily, if not solely, to whom application had been made, to whom it was
then, and has since been made, claim an exemption from them, under
a treaty to which she was not a party, and in which her name was not
even mentioned? We are of opinion, by the known and well established
doctrine of the law of Nations, by the clearest principles of justice, that
she cannot. With respect to the opinions which you have been
pleased to communicate to us, of the Minister of foreign affairs and
the late Ambassador of France on this subject, we have received them
with the consideration which is due to the very respectable authority
from which they emanate. We are not willing to believe that they oppose
the principle above laid down, or apply to those cases which are justly
chargeable on Spain, because our government, for the reasons above stated,
and by the clearest conviction, thinks otherwise. On all treaties between inde-
pendant powers, each party has a right to form its own opinion. Every nation
is the guardian of its own honor & rights, and the Emperor is too sensible of
what is due to his own glory, and entertains too high a respect for the U. States,
to wish them to abandon a just sense of what is due to their own. We do not
believe that the views which our government takes of this subject, was ever
presented to that of France, since we are not aware that there ever was an
occasion for it. By those treaties with his Imperial Majesty, all differences
between the U. States and France were happily terminated, and the relations
of the two countries placed on a footing of permanent friendship. The ad-
ditional questions growing out of them, in which France and the United States are

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~~interfered~~, their governments are perfectly of accord. We should regret much if they were not so, in the present case, as indeed in all others between the U. States and Spain.

As to the doctrine held by certain respectable professional characters in the U. States, whose opinions have been asked and given in this case, that France and Spain were associate parties in the injuries complained of, the former as principal and the latter as accessary, we are sorry to be called on to make any remark on it. Delicacy for those Gentlemen makes this an unpleasant duty. From that motive we will confine what we say to the doctrine itself. We will admit that we have not made up our minds to a censure of their conduct, since, if such an interference is justifiable under any government, it certainly is so under that, where it is their happy destiny to dwell. In noticing their opinion, we have to observe that they have evidently mistaken the case, by applying to Nations a maxim of local municipal law, which is applicable only to individuals. Among Nations it is believed that there is not such thing as principal and accessary. All are principles, and are to be regarded as such, in all their transactions. In case of a war to which there are several parties, allies on each side, nothing is more common than for one to make its peace, and withdraw from it. It was never contended that an adjustment made by one party, in such a case or any other, settled the differences of the other party. The doctrine of principal and accessary, of a release or discharge to one power, by virtue of an accomodation with another, was never heard of among them. Indeed it would be strange if any one Nation should undertake to adjust the concerns of another, without its authority. It would be more so if any adjustment between two parties should be so contrived as to produce an important benefit to a third, not only without its authority, but without knowledge of any one of them. Suppose that an adjustment made by one of the parties for a third one, should be highly detrimental to it, would such third party be bound by it?

Had France, for example, stipulated that Spain Ret. Jay for all

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those spoliations, and a great proportion of her own, would Spain have allowed her right to do so? ought she then, or has she a right to claim any advantage from a transaction, to which she was not to party by which she could not be bound, and which in its nature could not be reciprocal?

With respect to the plea, on which the opinion of those gentlemen, is in part founded, that Spain was not in a situation to prevent those violations of her territory by France, & is therefore not accountable to the U. States for the injuries resulting from them, we find ourselves precluded by the high respect which we entertain for his C. Majesty, from dwelling on it. We shall be permitted however to observe that we utterly deny the fact.

Spain was never placed in that dilemma. Having from very remote antiquity held a very distinguished rank among the powers of Europe, she still enjoys it. In her late war with France nothing occured which placed her in the condition of a conquered Nation. Her troops behaved with gallantry in the field; and her government obtained an equal and honorable peace. If then she did not prevent those violations of her territory, it was not because she was not able to do it, but because they were sanctioned by some treaty which secured her, in other respects, an equivalent: or that she chose to permit them from some motive of policy at the ~~xxx~~ time; in either of which cases she is responsible to the U. States for the same.

We have thus answered fully the arguments urged by your Excell.cy against the claim of the U. States on Spain, to an indemnity for the spoliations on their commerce by the Cruizers and Tribunals of France, within the territory of Spain, in the course of the last war, and we are persuaded, shewn in the clearest manner that that claim is well founded: we should have gone more fully into this point in our former Notes, had we not believed that it was already fully illustrated by the communications which had taken place on it, between our governments, in the U. States and here, to which we beg leave to refer, a note of which latter is here annexed. We have however been happy, at your Excellency's suggestion, to review the subject, being very solicitous to prove, on all occasions, that our

government makes no claim, which is not founded in justice, and being likewise so to avail ourselves of every suitable opportunity, to give new proofs of its respect for, and desire to preserve the most most friendly relations with his C. Majesty.

On the point respecting the suppression of the deposit at N. Orleans, we expect that it is altogether impossible to agree to the doctrine, which is insisted on by your Excellency. on a careful perusal of the treaty, we find in it nothing which justifies the idea that there ever was to have been a moment of interruption in the enjoyment of that right, either at N. Orleans, or at some other suitable place on the banks of the Mississippi. Nor is it true stipulated, that in suppressing one existing deposit, and opening another, the Govern.t of Spain should give notice of the design and hold communication with that of the U. States on the subject.

On the other hand it may also be said with equal truth, that it is not stipulated, in taking that measure, that that friendly proceeding should not be observed, but that his Majesty may do it, and keep the deposit altogether suppressed till the Govern.t of the U. States should make application for the opening of it.

In all such cases the policy of the measure, the object of the treaty, and the intention of the parties are to govern in the interpretation of it, and by these it appears to us to be unquestionable, that another deposit ought to have been opened, at the moment the existing one was closed. It is on that principle that the U. States consider themselves entitled to an indemnity for the injury which was sustained by that measure. What the precise amount of that injury may be, it is not in our power to state; from what we have understood however it is by no means of the trifling nature Your Excellency seems to suppose it. We have not sought as an indemnity for it any precise sum: we have only proposed that it sh.d be referred to the judgement of impartial arbitrators, on such proof as might be presented before them, to estimate it: a proposition which we deemed too just and reasonable to admit of objection.

On the subjects of limits, and others incident to it, having already stated to your Excellency the views of our Government, we deem it necessary only to refer again to our former communications. As neighbourly dispositions of living together in peace and friendship, it is certainly an object of essential importance to adjust and arrange these very interesting points at this time, in a clear, definite and satisfactory manner. At an epoch so extraordinary, and big with such important events, it may be productive of much harm to leave any thing unfinished, and thereby exposed to casualty. Disputes of undefined boundary especially, where the pretentions of the parties differ, and those of either may be carried, under colorable pretexts, to great heights, there is always danger, by delay, of their becoming the cause of serious controversies, and even destructive wars. Aware of this danger, the President of the U. S. is sincerely desirous of averting the evils incident to it, while it is practicable. It is with this view, that he has sought, by the present Negociation, to settle amicably & finally, all the points depending between the two Nations. The propositions which we have had the honor to make on this occasion are deemed reasonable and just, and we flatter ourselves that they will be so considered by His Majesty's Government.

We have now the honor to submit to your Excellency again the sentiments of our Government, on all the points depending between the U. States and Spain, and in so doing consider it our duty to repeat what we stated in our former notes, that it is equally incompatible with justice, as it is with our instructions to enter into any arrangement relative to claims for spoliations which does not provide in some equitable and satisfactory mode, for the whole. To reserve a right, in respect to those which were committed by French cruizers and Tribunals, without making any provision for it, could at this stage, be considered in no other light than an abandonment of it. We have forborne to state in detail the extent of these injuries, comprising in the whole 372 Vessels & Cargoes, or the aggravated circumstances attending many of them, which have involved in ruin many of our most respectable and wealthy Citizens, because it has been our object rather to heal than to open

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wounds. It is well known that at the time these injuries were received
to our citizens, there did not exist on the part of Spain the slightest cause
of complaint against the U. States, whose government, peaceable and
friendly, has borne them with a patience & moderation, of which
history furnishes no example in equal degree. Many years have
elapsed since these injuries were received, during which time, the
sufferers looked to their government for reparation without effect.
Their last hope is founded on this Negociation, and great would
their astonishment and disappointment be, if they were told that
more than one half of them were to be abandoned. We repeat
however what we took the liberty to state in our letter of the 12th.
instant that if it is possible on being possessed of his Majesty's
sentiments and propositions on the whole subject, to provide
by a general arrangement for this and the other objects, in any
mode consistent with our duty, which may be satisfactory to him,
that we shall be happy to do it.

We beg your Excellency to accept the assurances &c

Signed { Chas Pinckney
Jas Monroe

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Oranjestad Feb.y 28.th 1805.

Gentlemen,

I have received your esteemed note of the 26.th inst.t in which you reply to mine of the 16.th, and before I make the observations necessary in answer to the same, it appears to me indispensable to satisfy by a seperate letter, the complaints of your Excellencies on the tone and expressions of my said note. The King my Master, being animated by the most sincere sentiments of friendship and distinguished consideration towards the U. States, your Excellencies will be pleased to do justice to the sentiments of his Majesty, and to mine, as being persuaded that I, who have the honor to be the Interpreter of them, could have no design, nor the most distant idea, I do not say to enjoin, but even to be wanting in those manifestations of consideration and respect for the U. States and their Government, to which they are so justly entitled. Commencing with this declaration, your Excellencies will permit me to examine the different expressions of my Letter of the 16.th which have given rise to your complaints. Your Excellencies say in the first place that, in my part, I imputed to you a refusal to discuss some of the controverted points, but if your Excellencies will take the trouble to read my note a second time, I hope you will acknowledge that I am far from imputing any thing on that subject; and that I only wished to say on it, that while your Excellencies believe it useless or incompatible with your instructions to continue the discussion upon the indemnifications reclaimed for injuries committed by the French Privateers, as I understood by the expression of your Excellencies "it seems useless to prolong the discussions on that point", I found myself obliged to treat the subject less extensively, than I thought I could; not to molest your Excellencies too much on it. I am far from supposing that this could involve the smallest disrespect, as it is only reducing it to a

Reference

difference of opinion, your Excellencies believing that the point was sufficiently discussed and I that it wanted to be a little more so.

In the 2.d place your Excellencies shew yourselves dissatisfied that I have expressed that the claim of your government for satisfaction for French Spoliations, should go to demand two indemnities for the same debt, which expression your Excellencies believe injurious to your government - but your Excellencies will permit me to observe that to demand two satisfactions for the same thing would be dishonorable to the American Government, knowing itself already satisfied by France, should still demand satisfaction of Spain - but as your government does not believe itself satisfied by France, it cannot be dishonorable to pursue its demand of satisfaction from Spain, while it continues in the belief that it has not received satisfaction from France. Spain on her part believes she has shewn, that the U. States have received satisfaction from France, and it is in this belief she may say that the U. States claim two satisfactions for the same debt, more she cannot say, nor have I said, or thought to say that they claim it with improper designs, knowing they demand two satisfactions, or that they believe they demand more than one; in which there is nothing dishonorable; although the U. States might be mistaken, as Spain believes they are in founding her belief in reasons which I have already explained to your Excellencies, and thinking on this occasion exactly in conformity with the opinion of the most enlightened Jurists of your Country.

In the third place your Excellencies complain that, in my note I have denounced many of the Citizens of the U. States as contrabandists on which your Excellencies will permit me to observe that I do not find any thing of this in my Letter, in positive terms, but in doubtful ones as the expression denotes - "it will not be extraordinary". A doubt which the representations of those employed in the Royal Revenue have given rise to, whose truth I do not pretend to guarantee, nor does the doubt fall upon many of the Citizens of the U. States, but upon

Som. very small numbers of them, as they very often use much in this sense, Altho' there have been but one or two cases. I do not see the injury, that can arise to the American Nation in expressing a doubt that there may have been some individuals concerned in contraband business, or giving pretexts to Spaniards to do so, nor have I either, attempted to discriminate between the two.

In the fourth place, your Excellencies complain that I have said that some of the Americans carried away by party spirit had calumniated Spain on account of the deposit at N. Orleans and have disfigured what has happened in the capital, and your Excellencies suppose that I designed likewise in a manner, to attribute this to the American Nation, the whole of whom, you say had but one opinion on the subject of the deposit. On this point I cannot be less than sensibly hurt at the construction which is given to my Expressions: in my letter I cannot find a single expression which can have the most remote allusion on the subject, either to the American Nation or its government. it treats only of some individuals; and so far from making the least reflection on the conduct of the American Nation and its government during the suspension of the deposit, on the contrary I have afforded many proofs of the satisfaction the conduct of the American government has given on that occasion: notwithstanding it is not less certain what I have said, that there were some individuals, especially some writers, who published things on that subject injurious and calumniating to Spain, and the result of which was that some of the Inhabitants of the western States (as was not extraordinary) not knowing the truth of the facts, suspended the shipping their Produce to N. Orleans, and suffered other injuries not imputable to Spain. in the first days of the suspension of the deposit, it was published by some North American that the navigation of the Mississippi was obstructed: this was a falsehood whose Customary was injurious to the good faith of the Spanish government, which had stipulated for the free navigation of the said River, and at the same time was prejudicial to the Inhabitants of the western States, who remaining in this uncertainty did not choose to undertake a voyage of such length. While

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there was danger of the outlet being interrupted, afterwards they said, and it was repeated in the writings and Speeches of some individuals that the suspension of the deposit, and what they might expect respecting the navigation, flowed from France having influenced Spain to take upon herself the odium of this measure, that France might receive Louisiana free from the obligations imposed by the Treaty of 1795, than which there could be no expressions more calumniating and unjust, it being an indubitable fact, that in the treaty of retrocession of Louisiana of the 1st October 1800, his Majesty had taken the most scrupulous care to secure the rights of the U. States, in the clause of art: 3d which says "elle (le roi) ne les retrocede (les Etats) pas avec la pretention que les Etats passés subsequemment entre l'Espagne et d'autres Estats". As to what respected the "enthusiastick Partizans" of which I spoke in my note, your Excel.cies will permit me to remind you, that I alluded to the attempts of some of the Inhabitants of the western States, who, (as the publick papers then announced) shewed a disposition & design to descend to Louisiana with an armed force, and without other legitimate authority, to take justice into their own hands, on which occasion there now exists in the office of the Secretary of State of the U.S. the representations of his Majesty's Ministers made to have such attempts chastised and corrected. These are the attempts to which I allude in my note of the 16th. and on no account to the conduct of the American government and Nation, which was prudent and just. But can it be denied that the consequence of these errors thus published, and which were, that some or many of the peaceable Inhabitants did not carry their produce to N. Orleans, are not to be, nor cannot be attributed to the act of the Intendant but to the occurrence which took place in the said country. There is nothing in my note which has reference to the liberty or otherwise of the Press, nor with the institutions of the American government which as Your Excellencies observe, every government is free to regulate as it pleases, but I only insinuated that the writings published with this motive, gave to the Western Inhabitants a wrong idea of what

passed in N. Orleans, and that this was not imputable to Spain, or the wish of the Intendant. This, and this only, is all which I wished to say in my Note of the 16th in which I am extremely sensible that, contrary to my intention, your Excellencies have found motives for complaint; to remove which, it appears to me proper, immediately, to enter into this explanation, which although somewhat diffuse, will I hope have answered the end intended. It appeared to me proper to do this in a seperate letter, reserving to myself to answer, with all possible dispatch, and brevity, the other points contained in your Excellencies esteemed note of the 26th.

In the interim, I renew to your Excellencies, the demonstrations of my distinguished consideration and esteem &c &c

(Signed) Pedro Cevallos.

Gentlemen

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Gentlemen, Washington March 4th 1805.

Immediately after I received your esteemed note of the 25th ult.o, I believed it my duty not to lose a moment in replying to the complaints you had been pleased to make on some of the expressions in my note of the 16th it not being consistant with my sentiments to let your Excellencies remain for a moment in the suspicion that I was wanting in any respect due to the U. States or its govern.t, & to persons so respectable as your Excel.cies, not only in your individual capacities, but as representing the govt you do. I flatter myself I have removed by my note of y.e 28th ult.o all motives for motives for those complaints, but if any doubt should still remain on that subject, I am equally ready to satisfy it, should your Excellencies be pleased to express it.

This done, I proceed to examine the other points contained in your note abovementioned of y.e 26th. It is certain that in my first letter of the 31st Jan.y I did not enter upon the points in dispute between the two govts but it appears to me, that in the same note, I gave the reasons of my proceedings on this occasion; the object of that note was to shew to your Excellencies, that in my belief, it was somewhat premature to begin to examine projects of a convention upon all the points, without analysing them first, & fixing the rights of each country, as far as possible, because as your Ex.cies well know, before we can proceed to a convention upon the whole, it is necessary to know as distinctly, as we can, what are the rights and obligations of his Majesty and the U. States. This knowledge of the detail ought to be the beginning of the negociation: because it is clear that according to the extent which they suppose the rights or obligations of each party ought to have, so ought the convention for the whole be more or less enlarged. This is what I believed your Excellencies wished to remark in your first note, by the following expression "Each of the depending points between the two govts ought to be examined impartially, and all motives of complaint and inquietude considered and terminated amicably, and to do this it is necessary to determine the respective rights &c.a. Understanding it thus, in my first note, I did nothing more than enumerate the points on which it appeared

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to me, we had to fix our respective rights, and to request your Excellencies opinion as to the order in which they ought be treated. In my second of the 10th inst. I spoke of the reclamations for injuries, committed by the Individuals of both Nations, and told your Excellencies that his Majesty was disposed then to terminate this point; and at the same time spoke, but not extensively of the damages committed by the French Privateers. In my third note of the 16th not to molest your Excellencies too much, I touched shortly on the same subject, and treated of the damages occasioned by the suspension of the deposit, and lastly, under date of the 24th I commenced the examination of the limits of Louisiana with those which relate to the eastern boundary.

In the context of all the letters together and of that which I promise to transmit, respecting the western limits of Louisiana, I hope your Excellencies will see I have not omitted entering upon all the points contained in your esteemed notes, only with the differences attended to from the beginning, that it appeared to me most proper and clear to treat each point separately, according to its different nature.

It is true, that to the present time, I have not been able to say to your Excellencies, as you wish, what is the disposition of his Majesty upon the whole, but the reason is, as I have thought from the beginning, that it is not possible for his Majesty to determine what part he will adopt upon the whole, without being clear what are his rights, or what his objections on each particular point. This examination being made, your Excellencies ought not to doubt that his Majesty will be ready to enter upon such a convention as shall be judged proper to conclude the claims and promote the interests of both parties. The King wishes to give proofs of his good neighbourhood and friendship to the United States and to fix them in the most permanent manner

Having said this and proceeding on the order of notes which have passed between us I must add to remark a little on the reflections which your Excies have made as to the assertion that I again so persuaded that the

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U.S. are satisfied for the damages occasioned by French Cruisers in her ports and on her coasts. Your Excies wish to know by which of the conventions which have been made between France and the U.S. Spain believes these damages have been satisfied. I answer by that of 1800 and by the context of its ratification. In speaking of the second convention it is only as your Excies may say on this subject an explanation or compliance with the first in order to go to the point at once one of the reasons which convince Spain and induces her to believe that she is not responsible for the damages occasioned by French cruisers in her ports and on her coasts is, that it is notorious that the U.S. have agreed with France to consider themselves as satisfied for all the damages they have received from her (France) during the last war.

It is true, in the convention, no mention was made of Spain: because, in the manner in which they treated, it was absolutely superfluous to do so, and the high contracting parties considering it as, omitted without doubt to mention that, which by the nature of things, could not be less than a necessary and inevitable consequence of what they stipulated. Nothing is more common in law, than that an act between two parties may be by its nature, and even independant of the will of the contracting parties, general to a third - for example: if a creditor releases a Debtor what he owes him, this act between the two is general to the security of the Debtor, who by the nature of things remains released, altho' no mention is made of him: what is more, altho both Creditor & Debtor have wished that he should not be released, because by the nature of things it is impossible the security should remain when the principal obligation has disappeared. In the same point of view, ought to be considered the obligation of Spain, if ever there did exist any from her to the U. States, with respect to the damages committed within her jurisdiction by French privateers - France was the offender, and of consequence the obligation, and the act or agreement

which

which released France, extinguished the obligation, which was observed
one and indivisible, as justly the learned Gentlemen of Phila.a...
The release of this claim supposes the same thing, as the receipt
of Satisfaction, and as other can be demanded without beginning
two satisfactions for the same offence, which are the identical
words of the said learned Gentlemen from whose mouth I took them,
when I inserted them in my note of the 16.th and as the same Gent.n
observe, if the former A. that is Spain had not been responsible, and
paid to B. the U. States, Spain could then apply to France to be
reimbursed as she was the offender, and France would not gain
any thing by the release of the U. States, which would become, by
this indirect mode, void, and it is very evident, every legitimate
act ought to carry with it every thing that is necessary for its
validity; it is undoubted that the Convention between the U. States
and France ought to be general to Spain, as much as is necessary
for its validity, that is absolving her from her responsibility,
if she had any, because on the contrary, by the U. States declar-
ing against Spain, and Spain against France, the latter would,
by this indirect mode, have at last to pay for the damages occasi-
oned by her Privateers. Your Excellencies knowing well
the force of this reasoning, attempt now to establish that Spain is
the principal obliged for the said damages, that her obligation is not
accessory, as presumes the learned Gen.n of Phil.a, who you say, have
confounded the case, applying the maxims of municipal law
to Nations, among which there is no such thing known as principal
and accessory, and finally your Excellencies deny that France
can be responsible for the damages committed by her Privateers
on the coast and in the ports of Spain, and admit that at the most
it can only be eventually so. But I cannot for my part conceive
how these assertions can be supported: in the first place I am per-
suaded that the principles of universal justice, on which
those learned Gentlemen have founded their opinion, is as ap-
plicable to Nations as Individuals: Nations as well as Individuals

are bound by them; if an Individual releases a Debtor nothing can be demanded of the security; so if a Nation confesses itself satisfied for a claim it had against another, the same cannot be repeated against a third, altho' She bore a part in the responsibility: the reason of this, is not a principle of Municipal Law, as you say, but an eternal & imprescriptible principle of universal Justice, which is, that two Satisfactions cannot be demanded for the same debt. Your Excellencies say among Nations, that they know nothing of such things as principal and accessorial obligations, but I do not agree to this. Among Nations as among Individuals, they may have accessorial obligations, by Mutual agreement, and also by the Nature of things, since if two Nations agree in an act from which results responsibility, for example an injury or Spoliation, it is indispensable that the responsibility and the obligation shall be proportioned to the intervention, each party had in it. That which committed the injury shall be first responsible, that which did not avoid it when she could and might, shall have less responsibility. Having had less to do in committing the act, and this second responsibility may be called accessorial or eventual, if your Excellencies prefer that term: in which I observe that if your Excellencies acknowledge the possibility that there might be eventual obligations between Nations, I do not know how you can refuse to admit the possibility of accessorial obligations; as to my judgement it is the same idea, but only expressed by different words. But in the present case, if we were even to suppose that Spain and France, the first accessory and the latter principal, associates, and both being principals, it will come to the same thing: the obligation having disappeared by the payment of France, Spain remains released, as the obligation was one & indivisible. Your Excellen.
will say that in the case on which we treat, Spain was the principal, and not only so, but the only one bound: but to me it is inconceivable how Spain, can be considered, in any manner, as the only one bound, because it is not possible to imagine, how France who was not at war with the United States, could seize, condemn and appropriate American

property

property without incurring some responsibility on her part. it would be a case never seen or heard of. and which combats all principles, and is contrary to common sense. We will see at last if Spain can be said to be the principal obliged.

It is evident that the obligation which an Offender has to repair his offence, and the right the offended has to demand reparation, arise in the same moment that the Offence is committed.

Let us apply this principle to what has occurred with respect to French Cruizers and the American Vessels - Spain was in alliance with France, and the two at War with Great Britain. Of consequence the French had a right to arm Privateers, and the Govt. of Spain to permit them to arm in their ports; they armed against the Subjects of G. Britain; but when they went out they committed infractions and violated the rights of other Nations, and these are things which in reality the Govt. of Spain neither could foresee or check: it results from this that these Offences existed and might exist, before Spain knew any thing of it. and that of consequence the right of satisfaction existed before she had knowledge of the fact, and existed against the aggressor, which without doubt constitutes the principal obligation. When Spain might, if at all, with more propriety, be considered as accessory, was after her knowledge of the offence: but in reality she ought not even then to be considered as such, because the injury terminated and was completed by the definitive sentence which took place in the Tribunals of France, in which they officiously and finally decided the sale of American Vessels. In proof that the Americans who were injured considered this subject under this aspect, we find the Tribunals of Captation full of the demands of those interested in Vessels taken within the Jurisdiction of Spain, and that these applications are supported, as I am informed, by the Offices of the American agents in France; but as when they pleased, it is evident that the U. States not being at War with France, always had the door open to commence their reclamations against her; this circumstance in the power

case constitutes a most essential difference. 1st Because the offender not being at war with the U. States, could not be less than the first, if not the only one responsible for the illegitimate act. 2d Because the U. States had the door open to make the demand of the Govt. of France, and thus had direct communication with the offender, which could not be the case if war was declared. 3d That Spain, not considering the U. States as in war with France, could not foresee the excesses that Corsairs armed in her ports against England might commit against American citizens, nor less avoid the definitive sentences of the Tribunals of France which completed the offence. Besides it is well known that among civilised Nations it is customary to demand from Ministers a bond to security that they shall not enure except against the enemies of the State, and as this bond or security could not exist but in France, it is a proof that it is there they ought to go to seek the responsibility, that is in France, and the U. States having renounced this, or being satisfied for these damages, nothing can be demanded of Spain. If upon this point there could remain a doubt, the positive affirmative of the Govt. of France that they are satisfied is sufficient to make it vanish. The Govt. of France ought to know without doubt, what were the offences she satisfied, by the Convention of 1800, and it is not credible she would venture to say it was concluded, without it was so, and which comes with great force from a third power, who does not find herself immediately interested in the present discussion, as are Spain and the U. States. On the other hand the information of France is of the greatest importance to establish the rights of Spain in this case: because if we suppose for a moment that Spain did pay to the U. States the damages arising from the Spoliation of the French Privateers, there is not the least doubt she would immediately apply to France to be reimbursed, but she would in reply very justly refuse the reimbursement, saying that Spain had done wrong to make the payment as France had previously communicated to her that the U. States had been satisfied.

I have not attempted to avail myself of the argument, as your Excel.y

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seem to suppose, that Spain could not prevent the injuries committed against the American Vessels, altho' it was in a great measure the case, because it was not possible to prevent injuries of which we had no knowledge, such as the French Privateers committed, which were armed in our ports against the English: My Defence is founded in the assertion that the said damages are already satisfied by France, and so did the learned Gentlemen of Phil.a understand it, when in their arguments they say, "But even leaving impossibilities out of the question, and" "admitting that the Power it could have prevented the injury" which was committed by the Power C. in that case the Power C. is no longer liable to any Responsibility, or Damages on account of its acquiescence."

I have insisted principally on this Method of Defence because founding it in an act clear and notorious, and of the most easy examination, it appeared to me to be the most convenient to repell a claim, which Spain could oppose with many other reasons and arguments.

It is not Demonstrable that a Nation is obliged to satisfy the Damages and injuries committed on her coast by the subjects of other powers, and cases without number might be cited to the contrary among civilized Nations. Denmark had her Ports open during last war to the belligerent powers, and condemnations of prizes were made in them without there being on this account any responsibility demanded of her; many other neutral powers suffered during the same war, various Damages from the French Cruizers, on the coast and in the ports of Spain, without having demanded any other thing of Spain, than to interpose her good Offices, and cooperate in obtaining redress for the injury. Spain when she has been injured has not demanded such indemnifications, and has only demanded that the Gov.r whose Flag or coasts have been violated should pass efficacious Officers for the reparation

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of the offence. This and this only is all to which Spain obliged herself by the 6th article of the Treaty with the U States on which after offering defence and protection reciprocally for the vessels of both countries within the extent of their respective jurisdictions, it says, that in case of offences of the nature of which we treat, each power in whose jurisdiction it is committed shall employ all its efforts to recover and have restored to the lawful owners, the vessels or effects which have been taken within the extent of its jurisdiction, from which it results, that the only thing which it can be pretended Spain has obliged herself to, is to employ all her efforts to recover and have restored the vessels and effects so taken, but in no degree exists any obligation on her to make reparation, should such efforts not produce the desired effect; because if it had been the intention of the high contracting parties to do this, it would have been expressly stipulated. Upon account of this article, your Excellencies pretend to be persuaded that Spain is the only one responsible for the excesses of the French privateers. I could not omit observing that the obligation of the power, which has to restore, could not but be greater and more principal, than that whose obligation only is reduced to the making efforts that they might be restored, and that France being in the first case and Spain in the second, it cannot but follow that the principal obligation rests on the first, and only that of accessory on the second.

Proceeding now to the damage occasioned by the suppression of the deposit at Orleans I will endeavour also to answer with the utmost brevity possible your Excellencies remarks in your esteemed note. On the first place your Excellencies will permit me to declare that I see with regret that in what I said in mine of the 16th as to the deposit at Orleans being a generous and gratuitous con-

cession

ception of his majesty, and other parts of my letter, I did not explain myself as I wished. Your Excellencies understood that I wished to say that the deposit not only in the capital, but on any other point on the banks of the Mississippi, was a charitable donation of his majesty, revocable at pleasure, either before or after the three years ~~fixed~~ fixed for its being at N Orleans, and that it might remain revoked until the U S. induced his majesty anew to restore it. It is not honorable to me that such apertions should be attributed to me. I said, and I intended to say, that in its origin, the right of the deposit granted to the U. S. in N Orleans, showed from a wish in his majesty to grant it generously and oblige himself to maintain it there for three years, as a convenience to the U S. Nothing is more common than for a nation to impose on itself an obligation gratuitously in favor of another, without more interest than the satisfaction of having done it a useful service without injury to itself. After making the stipulations and conclusion of the treaty of 1795, There was, no doubt an obligation, to maintain it to comply with it; but in the case of the deposit, there are two things essentially distinct, which ought to be considered - the deposit at N Orleans and the indefinite deposit in some other place on the banks of the Mississippi. The three years being over, and injury arising to the royal revenue from the continuance of the deposit at N Orleans, to have continued it there notwithstanding, cannot be considered less than as a favor of the King my master, because no obligation existed on his part to do so. and if the U States had desired that the deposit at N Orleans, should have continued in a manner not precarious, but established and obligatory, it was necessary to have a new stipulation. be

cause

cause his majesty was not obliged to do so. at present as to what regarded the right of deposit in the other place, the U.S. did not requeire a new stipulation, because they had it by the treaty; but as the new place was not established by the treaty, it is clear the U.S had a right to fix it on the spot which they thought convenient, or the two Govts had to understand each other in the establishing it. for as it was to be fixed to the satisfaction of the American Govt Spain could not do it alone or without saying what were the qualities it ought to have to answer their ends. the difficulty is not in that which is in itself simple but it is in examining its situation after the end of the three years in the capital, and the other four years in which his majesty generously continued it there, being under no obligation to suffer the inconveniences which were encountered in the said four years. and the question now is whether he could or not suspend the deposit in new Orleans before agreeing with the parties concerning the fixing another, or in other words, if after the conclusions of the three years of the deposit at Orleans the King was obliged to suffer the inconveniences of its continuation, until they could enter into a convention or agreement respecting another place or further if the U States could in rigourous justice be made to suffer the intervening inconveniencies of the suspension for the time necessary for the two Govts to agree upon the fixing it. the treaty says nothing of this and I hope I have shewn that good neighbourhood and friendship should have permitted for a short time the inconvenience of the deposit at N. Orleans before proceeding to suspend it. if for this reason his Majesty revoked the Edict of the Intendant, but speaking of what is rigorous justice can be supposed to be due to the solicitude of being indemnified for the same. I am of opinion that as the treaty said

nothing

nothing about it, his Majesty was not obliged to continue the deposit at N. Orleans, nor to suffer its inconveniences, altho' he was bound to consent to its establishment in another place, on which his Majesty could not determine alone, it being necessary that it sh.d be fixed equally to the satisfaction of the U. States.

I repeat that it is not my intention to approve the conduct of the Intendant, nor to diminish the rights of the U. States under the treaty, but to examine points unsettled in it, and to deduce from thence, whether Spain was, or was not liable for the indemnifications arising out of the suspension of deposit at N. Orleans, an examination which may, in my opinion, have been excused from the short duration of the existence of the injuries, which might be considered as really attributable to the Edicts of the Intendant.

I beg your Excellencies to accept the assurances of my respect &c.a &c.a

(signed) Pinkney Cevallos

To Mr. Cevallos.

Sir, Aranjuez March 8.th 1805

We have now the honor to answer your Excellency's esteemed note of the 24.th Ult.o, respecting the eastern limits of Louisiana, the receipt of which has been already acknowledged.

We are happy to find that we shall not differ as to the material facts, on wch the question depends, to wit, that France held Louisiana prior to the treaty of 1763, to an extent eastwardly to the Perdido, comprising in it the greater part of W. Florida: that she ceded it by that treaty to G. Britain, who in 1783 ceded it to Spain, Spain having possessed herself of it, by her arms in the course of that war: that the treaties referred to, in that of St. Ildefonso, whereby Spain ceded Louisiana to France, as having passed subsequently between Spain and other powers, are that of 1783 between G. Britain and Spain, whereby the former ceded to the latter that portion of

isiana called by her W. Florida, and that between the U. States in
5. none others were made by Spain relative to that object; they therefore
c.d be referred to. We admit also that they were referred to by a
d sufficient motive. We are also happy to find that we shall
not differ in opinion on the principles of the law of Nations, or the rules
by W.ch Treaties are to be construed under them, especially the following
to wit, that Treaties must not have ambitious or abstruse constructions, when
it is possible to give them a plain and simple one: that the intention of
the parties to a Treaty is to be collected from the whole articles: that each
clause is to be taken into view, and the import of the whole collected from
that of each clause: and that no part is to be supposed superfluous to
W.ch a rational meaning can be given.

We sh.d be happy if we c.d agree in the application of these facts
and principles to the point in question. We draw however from them,
by the clearest evidence and most satisfactory reason, a conclusion
that under the treaty between the U. S. and France, of 1803. which is founded
on that of St. Ildefonso, between Spain and France in 1800, that W. Florida
was comprised in the cession of Louisiana to the U. States, Upon wh.h it is
appears of a contrary opinion.

Before we proceed to the enquiry, and to answer y.r Ex.cy's note, we think
proper to premise, that it w.d have been more agreable to the U. S. to
have obtained the cession of that province of France, by a strict
definition of its boundaries, since in that case they w.d have known
distinctly what they had acquired, and avoided the necessity of a dis-
cussion with Spain. But as these had not been fixed between France
and Spain it is impossible to give to the definition. It was there-
fore agreed that France sh.d cede to the U. S. precisely what she had ac-
quired of Spain, and that the extent of that acquisition might be
known, that the 3.d art: of the treaty of St. Ildefonso, between France &
Spain, sh.d be inserted in that of Paris between the U. S. & France.
Thus that article and it alone, became the extent of the right w.ch
the U. S. had thus acquired. There is nothing in the treaty, nor did
any thing occur in the negociation, to detract from its just and rational
import.

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deposit at N. Orleans, nor to suffer its inconveniences, altho' he
bound to consent to its establishment in another place, and
his Majesty could not determine alone, it being necessary that it
be fixed equally to the satisfaction of the U. States.

I repeat that it is not my intention to approve the conduct of the Intendant, nor to diminish the rights of the U. States under the treaty, but to examine points unsettled in it, and to deduce from thence whether Spain was, or was not liable for the indemnifications arising out of the suspension of deposit at N. Orleans, an examination which may, in my opinion, have been excused from the short duration of the existence of the injuries, which might be considered as really attributable to the Edict of the Intendant.

I beg Your Excellencies to accept the expressions of my respect &c. &c.

Signed Pinkney Cevallos

To M.r Cevallos.

Sir, Aranjuez March 8.th 1805

We have now the honor to answer your Excellency's esteemed note of the 24.th Ult.o, respecting the eastern limits of Louisiana, the receipt of which has been already acknowledged.

We are happy to find that we shall not differ as to the material facts, on wch the question depends, to wit, that France held Louisiana prior to the treaty of 1763, to an extent eastwardly to the Perdido, comprising in it the greater part of W. Florida; that she ceded it by that treaty, to G. Britain, who in 1783 ceded it to Spain, Spain having possessed herself of it, by her arms in the course of that war: that the treaties referred to, in that of St. Ildefonso, whereby Spain ceded Louisiana to France, as having passed subsequently between Spain and other powers, are that of 1783 between G. Britain and Spain, whereby the former ceded to the latter that portion of

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We Sh? be happy if we Ct agree in the application of these facts and principles to the point in question. We draw however from them, by the clearest evidence and most satisfactory reason, a conclusion that under the treaty between the U. S. and France, of 1803, which is founded on that of St. Ildefonso, between Spain and France in 1800, that W. Florida was comprised in the cession of Louisiana to the U. States, tho' your Ex.cy is of appears of a contrary opinion.

Before we proceed to the enquiry, and to answer your Ex.cy note, we think proper to premise, that it wd have been more agreeable to the U. S. to have obtained the cession of that province of France, by a strict definition of its boundaries, since in that case they wd have known distinctly what they had acquired, and avoided the necessity of discussion with Spain. But as these had not been fixed between France and Spain it is impossible to give such a definition. It was therefore agreed that France shd cede to the U. S. precisely what she had acquired of Spain, and that the extent of that acquisition might be known, that the 3d art. of the treaty of St. Ildefonso, between France & Spain, shd be inserted in that of Paris between the U. S. & France. Thus that article and it alone, became the extent of the right wch the U. S. had thus acquired. There is nothing in the treaty, nor did any thing occur in the negociation, to retrace from its just and rational

import.

import. The U. States were at liberty, as Fr. would have been, had the cession not been made, to examine under it the extent of their rights, and in so doing to appeal to those facts and principles, which in the estimation of the enlightened and impartial world, ought to govern in the case. It is by this investigation that the Gov.t of the U. S. has formed its opinion of their rights, and it is from a regard to justice and motives of respect to his C. Majesty, that they are now made the subject of amicable discussion with his Gov.t. Having made these remarks we proceed in proposed enquiry.

We observe that your Ex.cy relies much, in support of the pretentions of Spain, in the point in question, on the import of the term "retrocede" which is found in the treaty; that you consider it as going far to decide the question in her favor. We cannot but express our surprise that such reliance, or indeed that any shd be put on a term vague and equivocal at best, wch it is easy to shew neither has, nor was intended to have any influence in the question. If it were of any importance to analize that term, it might be contended, that as Fr. once possessed that province, a cession of it back to her, by any power who had obtained it of a third, was a retrocession of it. By ceding it back to France, the former proprietor, it wd, in respect to her, be a retrocession, altho' not one acre of it had been rec.d of her by the power making it. And it is very likely, under such circumstances, that such wd have been the stile of the treaty, or the phraseology of the article applicable to the subject. In the present case all the territory which was ceded back to France had belonged to her before; 1/2 of it, supposing W. Florida to be a part, had been previously ceded by her to Spain, and that 20.th part had been ceded by her to another power to accomodate Spain, of whom Spain had obtained it. Was it not natural then when Spain ceded back this territory to France that the term retrocession shd be made use of? Had it been the object & studious endeavour

of the parties to characterize, in the treaty. The former proprietorships and transactions respecting this territory, and no more cd. have been intended, it is not known how, even with the import annexed to the term by your Ex.cy, a more suitable or just one cd. have been adopted for the purpose. But as already observed this term is of no real importance in the case, nor was it intended to have any by the parties, in the sense alluded to, as is perfectly evident by the other parts of the article. We find in it three distinct members or clauses, which were introduced for the express purpose of explaining what was intended to be done. By these, is fully and accurately defined, what proportion of that province sh.d be transferred to France, & what other proportion of it sh.d be excepted from the operation of the treaty. If it had been intended that the term "retrocession" sh.d be understood in the sense insisted on by your Ex.cy, it is presumable that none others cd. have been used, since not being necessary to illustrate, they cd. only serve to obscure, and perplex. The introduction therefore of other clauses plainly proves that that term was not to be relied on as corresponding the object of the parties, but that those clauses were to do it. It will not be denied that altho' the title of the treaty might be what it is said to be, and the term "retrocede" introduced in every page, and altho Spain had never received one acre of the territory from France, that she might nevertheless, by suitable operative clauses, convey and transfer to France all that portion of Louisiana which she possessed, if she was so disposed. It is by the operative clauses of every treaty, and of every article in each, that their meaning is ex pounded. It is to them that we must respectively refer, in the present instance, for the intention of the parties, in that of St. Ildefonso, and the extent of the rights of the U. S. acquired under it.

By the 1.st clause of the 3.d Article of the treaty of St. Ildefonso, Spain cedes to France the Province of Louisiana "such as it is in the hands of Spain". It is to be observed that the reference here made to that province, was in its integral State, that is while in the possession

possession of France and of course prior to the cession made of it by her in 1763, as will be more fully seen by the next clause. The simple question then on this clause is, What portion of Louisiana was in the hands of Spain when the treaty of St. Ildefonso was formed? All that portion, be it what it might, was clearly and positively comprised in the cession and transferred to France. All that portion, be it what it might, not in the hands of Spain, was as clearly and positively excluded from it. This is the plain and obvious import of the clause; indeed it admits of none other, by adhering to wch every thing of an obvious and absurd tendency, is avoided, simplicity in the construction is preserved, & what is of equal importance the integrity and fair intentions of the parties are manifested. All that portion of Louisiana, according to its ancient limits, wch lies eastward of the Mississippi, from the 31st of North latitude to the Northern limits of the U. S. had been ceded by the treaty of 1763 to G. Britain, to wch France, Spain and Portugal were parties, and afterwards confirmed by her to the U. States, at the close of their revolution in 1783, to which France by her treaty with those States in 1778, had already annexed her special sanction, as did Spain afterwards by her treaty, in 1795, with the addition of the rights of deposite at N. orleans. How[d] therefore have been highly improper in the parties to the treaty of St. Ildefonso, to have formed it in such manner, as to have admitted the cession to have applied, by any possible construction, to any part of that territory, or rights belonging to it. Accordingly we find by the clear and obvious import of the articles, that such a construction is altogether and absolutely precluded, and by terms the most suitable and judicious that cd have been selected. We find also that the Art: is equally clear & explicit, as to the portion of the province wch it was intended to cede. By ceding that portion and that only, which was

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in her hands, Spain did what she had a right to do and no more, of wh. a very distinct idea was conveyed in both respects. She excepted from the cession all the territory, above described, which of right ought to have been excepted. She comprised in it all that she had a right to cede, including of course as being her property and in her hands W. Florida.

In the 2d. clause the cession is further explained and confirmed in the following terms "such as it was when France possessed it." By which a clear and explicit reference is made to the province at a period preceding the treaty of 1763, when France possessed the whole. This clause wd. of course have been understood to have comprised the whole had no part been specially excepted from the cession. But we have already seen that by the operation of the first clause, all that portion of the province, according to its ancient limits as known before the treaty of 1763, was belonging to the U. S., was clearly excepted from it. In every other respect however, its operation is uncontroled it certainly comprises all that part wch was then in the possession of Spain, from whatever power, or by whatever means obtained. By referring to it at an epoch anterior to the treaty of 1763, that is when France possessed it, it was obviously the intention of the parties to reject all idea of subsequent divisions, modifications, or appellations, by either of the powers who were since possessed of it. It was well known that G. Britain had called that portion which was ceded to her by the treaty of 1763. W. Florida, and it was probable that Spain might have called some other portions of it adjoining Mexico, by some other name. Hence it was possible, if by any constructions analagous to the province had been admitted, at any period after 1763, that these distinctions and terms might have created some embarrassment in the meaning. To avoid that danger it was deemed advisable to go back to an anterior epoch, & thereby put them entirely out of the question. This clause then shews still more clearly, that it was the intention of the parties to include W. Florida, in the cession, since by taking them together, and giving to each and both their just construction, it is impossible to mistake

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their meaning. By the first, all that portion of Louisiana, which was in the hands of Spain, was transferred to France; but as it was possible, for the reasons just mentioned, that doubts might arise, whether W. Florida was comprised in the cession, by this it is expressly declared that no part of the province in the hands of Spain, which France had ever possessed, shd be exempted from it.

By the 3d clause of the Art: the cession of the province is declared to be in an extent "such as it ought to be after the treaties passed subsequently, "between Spain and other powers". The treaties here referred to, are, that between G. Britain and Spain in 1783, whereby West Florida was ceded to the latter, and that between Spain & the U.S. in 1795, whereby the boundary adopted in their treaty with G. Britn with the right to the free navigation of the Missipi and of the deposit at N Orleans were established. What then is the effect of this third Clause?

To us nothing can be more simple or intelligible. We will first examine it in reference to the first treaty which alone creates the difficulty. By that Spain became possessed of a portion of Louisiana, which she had not acquired of France by means whereof such addition is brought within the scope of the two first clauses already noticed, and is transfered by them to France. It is brought within the scope of the first because "it is in the hands of Spain". It is brought within the scope of the second because it is a part of the province "such as it was when France possessed it", and by the terms of the 3d or last clause it is expressly designated as a portion of the territory which it was intended to cede, by that treaty to France. If we examine impartially the import of these terms we shall find that it is impossible to give them any other national interpretation in reference to this object. The terms are, "such as it ought to be after the treaties passed sub-

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subsequently between Spain and other powers" This portion having been a part of the province when France possessed it and being now by the Treaty of '03 vested in the hands of the same power who held every other part not expressly excepted from it as belonging to and ceeded to the U States by many treaties as already stated, ought it to be considered as a part of it again. Had Spain possessed and ceded that portion of Louisa to Gt Britn by the Treaty of 1763 or at any time before that of St Ildefonso this clause would have exempted it from the cession as would both the others. Being out of possession of Spain these clauses would not have operated on it, and being ceded by Spain to another power, in a treaty passed subsequently. That is after 1763 the cession did have been sanctioned by this clause. But Spain did not cede that territory to G. Britain: on the contrary, she acquired it of her and it is inconceivable to us how that acquisition which brought it into her possession and subjected it to the control of the two first clauses, should be supposed to have exempted it from such control: How a treaty which enlarged the limits of the province in her hands without producing any other effect, should be construed as lessening the extent of the cession. The reference made by this clause to the treaty of 1783 must be considered as intended to produce an effect in the present one correspondent with the spirit of that of 1803. It would be strange indeed if it counteracted that spirit and produced an opposite effect and in judging of the effect which it was thus intended to produce not only the spirit of that treaty is to be regarded but this clause must be construed in connection with the preceding ones so as to give them their just effect also. It is a well known rule in the construction of treaties "that the interpretation ought to be made in such a manner that all the parts ap-

"appear consonant to each other that what follows a-
"gree with what went before, at least if it does not
"appear manifestly that by the last clauses something
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ties to comprese west Florida in the cession

With respect to the effect of this clause
on the other treaty referred to in it that of 1795 between
the U S and Spain it is obvious that it was the
intention of the parties to secure to those States in
the hands of the new proprietors the rights which they
had acquired on that territory by that treaty. It
was it is true impossible for those parties or
any others in a treaty between them to destroy the
rights of a third one. It was nevertheless very proper
and honorable in them to insert a provision in this
for the security of those rights.

Having thus examined carefully
and impartially the 3d art. of the treaty of St Ildefonso under which
France ceded to the U S the province of Louisne and as we pre-
sume proved incontestably by a just construction of its seve-
ral clauses that W Florida was a part of the cession; we will
now proceed to notice some of the other remarks of your Excy
which merit a more particular attention

Yr Excy. observes that as the territory in question
to wit that lying between the river Iberville and the Per-
dido was called by Gt Britain W Florida after it was
ceded to her by the treaty of 1763 and as that name had
been preserved to it by his Catholic Majesty in the title

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...s at the Havanna, since it came into the hands ...in that it cannot be considered as comprised in the ...n to France by the treaty of St Ildefonso. But we have already shewn and we presume satisfactorily that that objection is altogether unfounded, supposing the fact as thus stated to be correct in both cases tho' it is proper to observe that we had understood that the territory in question had been governed as a part of Louisiana after the Treaty of 1783. Be that however as it may it is proved by referring to Louisiana at a period when it was possessed by France to characterise the cession made that it was an essential object of the two first clauses to get rid of that objection and they have done so as effectually as if that division or name had never existed. It was also observed that any construction of those clauses which should comprise west Florida within the cession, might with equal propriety be considered as applicable to all that portion of Louisiana which lies within the limits of the U S. We cannot perceive on what principle this remark is founded since as the facts are different there is certainly no analogy in the cases. To support the doctrine it ought to be shewn that W Florida is not in the possession of Spain that ~~it was comprised~~ but of the U S or some other power We have shewn by a fair construction of the clauses that it is by virtue of that portion of the province being in the possession of Spain that it was comprised in the cession, and by virtue of the other portion of it, that is what belongs to the U S being out of the possession of Spain that it was excluded from it.

Yr Excy observes also that if it had been the intention of the parties to include W Florida in the cession, it would have been easy to have expressed it.

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the Spot at the Havanna, since it came into the hands of Spain that it cannot be considered as comprised in the cession to France by the treaty of St Ildefonso. But we have already shewn and we presume satisfactorily that that objection is altogether unfounded, supposing the fact as thus stated to be correct in both cases tho' it is proper to observe that we had understood that the territory in question had been governed as a part of Louisiana after the Treaty of 1763. Be that however as it may it is proved by referring to Louisiana at a period when it was suspected by France to characterise the cession made that it was an essential object of the two first clauses to get rid of that objection and they have done so as effectually as if that division or name had never existed. It was also observed that any construction of those clauses which should comprise west Florida within the cession, might with equal propriety be considered as applicable to all that portion of Louisiana which lies within the limits of the U S. We cannot perceive on what principle this remark is founded since as the facts are different there is certainly no analogy in the cases. To support the doctrine it ought to be shewn that W Florida is not in the possession of Spain that ~~it was comprised~~ but of the U S or some other power We have shewn by a fair construction of the clauses that it is by virtue of that portion of the province being in the possession of Spain that it was comprised in the cession, and by virtue of the other portion of it, that is what belongs to the U S being out of the possession of Spain that it was excluded from it.

Yr Excy observes also that if it had been the intention of the parties to include W Florida in the cession, it would have been easy to have expressed it.

We

we do not know that it Wd have been possible to have expressed it in a manner more clear than is done; we are satisfied that other terms more comprehensive and guarded in reference to all the objects, which it was proper the parties Shd have in view, more intelligible, less free from objection, and at the same time so concise, cd not have been found. With strict propriety may we say that if it had been the intention of the parties to exclude Wd Florida from the cession, that it was very easy to have done it & that the means were obvious, since it was only necessary to have stated that Spain ceded to France that portion of Louisiana only which she had received from her. If had that been done there Wd have been no occasion for the subsequent clauses, especially the two first, to explain the meaning of the parties and define the extent of the cession. We might add that if the case admitted of any doubt, Wch however we deny, for in our judgement there never was a clearer one taken into consideration, that from the nature of the transaction that doubt ought to operate against Spain, since it is a well established doctrine of the law of Nations in the construction of treaties, that in all cases of grants & cessions, "if the party making them fails to explain himself clearly & plainly, it is the worse for him: he cannot be allowed to introduce subsequent restrictions which he has not expressed." We do not however think that the present case admits of any doubt.

We cannot suppose that the French Prefect Mr Laussat had any instructions from his govt by what limits he was to receive the province of Louisiana, from the officers of Spain, or that he had its orders to surrender it to the U. S. by any of a definite nature. This opinion is founded on the treaty between the U. S. and France, by which the cession was made to those States, & in Wch no limits were defined, for the reasons stated in the commencement of this note. We entertain as already observed a very high respect for his Imperial Majesty, and can never believe that he Wd by any act of his, be willing to invalidate any of

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With respect to the opinion entertained by Mr. Elliot on this
, we have only to observe that altho' we believe him to be a good
Astronomer & Geographer, we are far from considering him in
the light of an able civilian. It is presumed that he ran the line,
between the U. States and Spain correctly, in the case alluded to, and that
his charts may also be correct, but we doubt whether he ever read with
attention either of the treaties on Wch the present question depends,
or W. be an able expounder of them if he had. In making his Book,
Wch it appears he had completed, before he was acquainted with the
cession of Louisiana to the U. S., or with the nature of that made
by Spain to France, which was then for the first time known, it
was natural that he shd consult the old maps of the country, and
regard the divisions that were made of it, prior to that epoch,
especially in conformity to the treaty of 1763. Under such cir-
cumstances, and in consideration that this question depends on
treaties Mr. Ex.cy will we presume, see the evident impropriety
of paying that deference to Mr. Elliot's opinion, which you have
been disposed to allow it.

We have read with much attention Mr. Ex.cys notes of the 4th & 9th on the
subjects of French spoliations committed within the limits of Spain
and are sorry to find that the opinions which we respectively enter-
tain on it, are as remote from an accord as they were in the com-
mencement. We have read with equal attention your remarks on
that of the suppression of the deposit at N. Orleans, in which you do
not seem to assent to the ideas which we deemed justly applicable, and
thought it our duty to express, relative to that interesting and unex-
pected occurrence. Having said all that we have to observe on these
points in our former notes, and having communicated fully our
sentiments in this as in that first presented, respecting the eastern
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right W.ch the U. States has acquired under that treaty.

With respect to the opinion entertained by M.r Ellicot on this point, we have only to observe that altho' we believe him to be a good Astronomer & Geographer, we are far from considering him in the light of an able civilian. It is presumed that he ran the line, between the U. States and Spain correctly, in the case alluded to, and that his charts may also be correct, but we doubt whether he ever read with attention either of the treaties on W.ch the present question depends, or W.d be an able expounder of them if he had. In making his Book, W.ch it appears he had completed before he was acquainted with the cession of Louisiana to the U. S., or with the nature of that made by Spain to France, which was then for the first time known, it was natural that he sh.d consult the old maps of the country, and regard the divisions that were made of it, prior to that epoch, especially in conformity to the treaty of 1763. Under such circumstances, and in consideration that this question depends on treaties the Ex.cy will we presume, see the evident impropriety of paying that deference to M.r Ellicot's opinion, which you have been disposed to allow it.

We have read with much attention the M.r Le. Cy's notes of the 4.th & the subjects of French Spoliations committed within the limits of Spain and are sorry to find that the opinions which we respectively entertain on it, are as remote from an accord as they were in the commencement. We have read with equal attention your remarks on that of the suppression of the deposit at N. Orleans, in which you do not seem to assent to the ideas which we deemed justly applicable, and thought it our duty to express, relative to that interesting and unexpected occurrence. Having said all that we have to observe on those points in our former notes, and having communicated fully our sentiments in this case that first presented, respecting the eastern limits of Louisiana, it remains that we sh.d now proceed to the last topick depending between us, to wit, the western limits of that province.

Having already had the honor to present our view of the rights of

the U. States on that point also, we shall be happy to be favord with that of Y.r Ex.cy on the same.

We avail ourselves of this occasion to observe that we received with much pleasure Y.r Ex.cys note of y.t 28.th ult.o in reply to our remarks on that of the 16.th, the purport of wch was further confirmed in that of the 4.th inst., since it gives us the very satisfactory, assurance, that it was not your intention by any expressions in that note, to convey the unfavorable sentiments in regard to our Gov.t and Country, wch we had supposed it did. — It was with much reluctance that we communicated to Y.r Ex.cy the impression which that note made on us, which we certainly, sh.d not have done, had we not have believed that it wd have produced a similar one on our Gov.t, on whom it was neither your wish or intention to produce it. The frank and honorable explanation we are persuaded. you have given us in that respect, is a full confirmation of what we had anticipated on that head, and an ample assurance that whatever may be the result of the business intrusted to us, we shall carry with us the sentiments of that high consideration and respect for Y.r character which it justly merits.

We beg your Excellency to accept &c &c &c

Signed { Chas Pinckney / Jas Monroe

Aranjuez March 14.th 1805

Gentlemen.

I have received your esteemed Letter of the 8.th in which you are pleased to answer mine of y.t 24.th ult.o relative to the limits of Louisiana, and I cannot do less than immediately to reply to it.

I agree at once with your Ex.cys. that treaties ought not to receive odious and absurd interpretations, which are capable of

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Your Ex.cies believes, to be of very little importance to the decision of the present question the word "retroceder" or "retrocession", which is the title of the treaty of S.t Ildefonso, & is found in the said 3.d art:, and I suppose it a term vague and equivocal, which has no influence in the question, and that if it had been important to analize it, it might be easily made to appear that, with the expression "retroceder" it is also intended to denote that W. Florida, or a part of it, ought to return to France, altho' she had not ceded it to Spain. For my part, I cannot but be surprised that your Ex.cies S.d consider vague and indeterminate an expression which serves to denominate the treaty, whose title literally copied is as follows. "Traité preliminaire et secret entre la République Française et S. M. C. touchant l'agrandissement de S. A. R. le Duc de Parme en Italie et la retrocession de la Louisiane". and which governs the whole proceeding, and is conspicuous in all the clauses of the 3.d art: of the said treaty. On a single reading of this art: there is no one but must know that according to grammatical order and the common use of language and words, the words to "engage to retroceder" is the principal action of it, and this principal intention is conspicuous thro' all the context and clauses of the art:, and that altho' the following expressions may modify it, they can in no degree contradict it without giving to the whole an absurd meaning, and as repugnant to common sense as to the most simple rules of Grammar and the art of writing, nor can it be said without discredit to the contracting parties, that they sh.d avail themselves of an expression vague and equivocal, I use it exactly in the most important article and upon one of the most interesting objects of the treaty: and that with a view to find such

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vague expressions they Sh.d select the Word "retrocede" having at hand the word cede, which followed by other explicit Clauses that might have been inserted, Wd. have explained with facility & precision the return of Louisiana to its former owner, and the cession of W. Florida, if such had been the intention. But it was no doubt the intention of the parties that the expression "retrocede" which has given the name to the treaty, and serves to express the principal design of the 3.d Art.e Sh.d be marked with all the exactness and grammatical rigour possible, nor is it susceptible of doubt ~~that~~ that the expression "retrocede" in its obvious and grammatical sense, means to cede to one what it has received from it. Your Ex.cy ought not therefore to think it extraordinary that I have believed and do believe that this expression is of the greatest consequence to the decision of the present question. The force it carries with it makes us see at once with what exactness and simplicity the other parts of the Articles graduate with it.

If we set out from the beginning to give to the expression "retrocede" a meaning which it has not, it will not be extraordinary if we find some embarrassment and difficulty to decipher the said Art.e it says in the first place that it retrocedes Louisiana "avec la meme etendue qu'elle a entre les mains d'Espagne" but this expression, in the mode in which Your Ex.cy construes it appears absurd and contradictory. It is indubitable that Spain possesses W. Florida, as Florida, not as Louisiana, and this act founded on an authenticity the most notorious, is marked in the treaty of 1783, and 1795, in a manner which cannot be contradicted or admit of a doubt: consequently, Louisiana "avec la meme etendue" which it has in the hands of Spain, is without W. Florida, and to suppose that the cession could have comprehended this Province, it was impossible to suppose it C.d be Louisiana with the same extent, without incurring a palpable contradiction. Your Excell.cy know the force of this difficulty, and wish to explain the 1.st Clause by the 2.d which says "et qu'elle avoit lorsque la France la possedoit".

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clause which has a fixed epoch as the first has, shd serve to clear up
the sense of the 2.d which has no epoch, or extent fixed, than that
we shd give so much force to the doubtful epoch of the 2.d clause,
as to make it destroy the clear & marked meaning of the expression
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explanation of Gouv Ec.rs the 2.d clause is in contradiction with the
1.st. admitting mine, both explain and combine simply, and prove
that Spain delivered Louisiana to France, with the same extent
that it had in her hands in 1800; and as France professed it, when
She delivered it to Spain; but as neither in the one or other epoch
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unite with each other, and both with the principal action
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The 3.d clause which Gouv Ec.rs suppose can also be brought as
a proof that W. Florida is included in the retrocession of Louisiana
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contrary, it says "et telle qu'elle était lors des traités passés"
"entre l'Espagne et d'autres puissances". It is impossible to
make any thing clearer than that treaty did not alter any thing
in the treaties which Spain had made with other powers on this
subject. There were two, one of 1795 with the U. S., and one with
England in 1783, by which Spain had acquired the territories to
the Eastward of the Missisippi, not as Louisiana but as Florida,
and consequently to be as it ought to be after this Treaty, Less with
the exclusion of a territory possessed by England as W. Florida,
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vague expressions they sh.d select the Word retroceder at hand the word ceder, which followed by other explicit that might have been inserted. W.d have explained with precision the return of Louisiana to its former owner, and the c of W.t Florida, if such had been the intention. But it was no doubt the intention of the parties that the expression "retroceder" which has given the name to the treaty, and serves to express the principal design of the 3.d Art.e sh.d be marked with all the clearness and grammatical rigour possible, nor is it susceptible of doubt ~~to~~ that the expression "retroceder" in its obvious and gramm-matical sense, means to cede to one what it has received from it- Your Ex.cy ought not therefore to think it extraordinary that I have believed and do believe that this expression is of the greatest consequence to the decision of the present question. The force it carries with it makes us see at once with what exactness and simplicity the other parts of the Articles gradeate with it.

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But I ask has the 2.d clause a fixed epoch, which determines the time when France had it? certainly not. then the word of this fixed epoch alludes to the last time when France had it, that is when she delivered it to Spain; an expression the more convenient as in any other manner it will be contradictory, with the first clause which says, "avec la même étendue que elle a entre les mains d'Espagne". if it was with more, it c.d not be with the same. It is more natural that a clause which has a fixed epoch as the first has, sh.d serve to clear up the sense of the 2.d which has no epoch, or extent fixed, than that we sh.d give so much force to the doubtful epoch of the 2.d clause, as to make it destroy the clear & marked meaning of the expression "retrocede" in the 1.st clause "avec la même étendue." admitting the explanation of your Ex.cy the 2.d clause is in contradiction with the 1.st. admitting mine, both explain and combine simply, and prove that Spain delivered Louisiana to France, with the same extent that it had in her hands in 1800 and as France professed it, when she delivered it to Spain; but as neither in the one or other epoch W. Florida made a part of Louisiana, the two clauses perfectly unite with each other, and both with the principal action "retrocede" which governs all the clauses of the Act:

The 3.d clause which your Ex.cy suppose can also be brought as a proof that W. Florida is included in the retrocession of Louisiana made to France, is to my understanding a new proof of the contrary, it says "et telle qu'elle était lors après les traités subsistés" "entre l'Espagne et d'autres puissances". It is impossible to make any thing clearer than that treaty did not alter any things in the treaties which Spain had made with other powers on this subject. There were two, one of 1795 with the U. S., and one with England in 1783, by which Spain had acquired the territories to the Eastward of the Mississippi, not as Louisiana but as Florida, and consequently to be as it ought to be after this Treaty, less with the exclusion of a territory possessed by England as W. Florida, conquered by Spain as W. Florida, and acquired irrevocably as

W. Florida, by the treaty of 1783, and received in each of these solemn acts, a new gratification of its total separation from Louisiana, and of the limits which seperate them.

Your Ex.cy contend that the treaty of 1783, was a new incorporation of the said territory to Louisiana, but I do not see in the said treaty of 1783 any thing but a confirmation of the rights of conquest which his Majesty's arms had made of an English province called W. Florida — the cession which France had made to England of the s.d territory, had been an alienation, perfect, irrevocable & perpetual. The territory became an English possession and afterwards a Spanish one. That Spain, on the other side, and by other titles sh.d have acquired Louisiana, & that the two territories sh.d remain to be united in the one hand, in which they were before united, does not import, nor c.d it import a legal incorporation of them because their titles & times of acquisition were different. Spain had no Louisiana but what she received from France, and it was undoubtedly Florida she received from England.

It is not conceivable or imaginable, how the cession of a province or territory c.d occur without mentioning or naming it, or that it c.d be made only by designating it with a name, which by the consent and notice of all the Nations concerned, and the most authentic publick acts, it had lost many years ago. This territory was called W. Florida, and it was so called, authentically and by this name the contracting parties wd have called it, had they imagined it was comprehended in the cession. As it is an acknowledged principle that the territories they change or cede ought to be designated by the names they then officially have, nor can it be said that by its entrance into the possession of Spain, it returned to its ancient state & name because all the publick acts since its entrance into the possession of Spain, from the treaty of 1783. inclusive, have confirmed its separation from Louisiana, and its difference of name springing from

the difference of its title of acquisition; after a separation so qualified it was only an express and positive stipulation that Gt. reunite it to Louisiana in its retrocession. Your Ex.cy have attempted in yr. note to persuade me that the treaty of 1783, reunited W. Florida to Louisiana anew, attributing it to the motive wch. made France cede to England in 1763. the Territory to the east of the Mississippi, and this motive your Ex.cy say was to favour Spain. But on my part I cannot agree to this. France ceded this territory because she felt it her interest to do so, or was obliged to do so. but this is of no importance, for be the motive what it may, the cession cannot be considered less than an effectual, irrevocable, and perpetual alienation, with all the consequences which were to make W. Florida an English possession. Being so, Spain Gt. conquer, acquire, and receive it from England, having this original and just title to it, and this alone is all she requires to make it her property in every sense of the word, and as independant of Louisiana as it was in the hands of England.

It results from this that the contracting parties had no intention to include W. Florida in the treaty of St. Ildefonso; this is the more confirmed, if we recollect that France Gt. not do it, nor Gt. she stipulate for the acquisition of any territory, to the Eastward of the Mississippi, without the consent of the U. S., as she had obliged herself to this by an express stipulation, contained in the 6.th Art. of her treaty with the U. S. which article says "Le roi très chretien renonce à posséder jamais les Bermudes, ni aucune des perles du continent de l'Amerique Septionale, qui avant le traité de Paris de 1763, ou en vertu de ce traité ont été reconnues appartenir à la couronne de la Grande Bretagne". It is to be seen from this that France Gt. not tie the U. S. did not consent when she had bound herself by this treaty, to acquire W. Florida, which by the treaty of 1763. belonged to the Crown of G. Britain. If in the treaty of St. Ildefonso, France had intended or proposed to acquire W. Florida, it is clear she Gt. not do so without the consent of the U. S., and that this consent ought to precede all other stipulations; on the contrary if France Sh.d have infringed the rights of the U. S. which can in no manner be supposed; it W.d not be becom-

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Your Ex.cy contends that the treaty of 1783, was a new incorporation of the said territory to Louisiana, but I do not see in the said treaty of 1783 any thing but a confirmation of the rights of conquest which his Majesty's arms had made of an English province called W. Florida— the cession which France had made to England of the s.d territory, had been an alienation, perfect, irrevocable & perpetual. The territory became an English possession and afterwards a Spanish one. That Spain, on the other side, and by other titles sh.d have acquired Louisiana, & that the two territories sh.d remain to be united in the one hand, in which they were before united, does not import, nor c.d it import a legal incorporation of them because their titles & times of acquisition were different. Spain had no Louisiana but what she received from France, and it was undoubtedly Florida she received from England.

It is not conceivable or imaginable, how the cession of a province or territory c.d occur without mentioning or naming it, or that it c.d be made only by designating it with a name, which by the consent and notice of all the Nations concerned, and the most authentic publick Acts, it had lost many years ago. This territory was called W. Florida, and it was so called, authentically and by this name the contracting parties will have called it, had they imagined it was comprehended in the cession. As it is an acknowledged principle that the territories they change or cede ought to be designated by the names they then officially have, nor can it be said that by its entrance into the possession of Spain, it returned to its ancient state & name because all the publick acts since its entrance into the possession of Spain, from the treaty of 1783, inclusive, have confirmed its separation from Louisiana, and its difference of name springing from

the difference of its title of acquisition; after a seperation so qualified it was only an express and positive Stipulation that Co. reunite it to Louisiana in its retrocession. Your Ex.cy have attempted in yr. note to persuade me that the treaty of 1783, reunited W. Florida to Louisiana anew, attributing it to the motive wh. made France cede to England in 1763. the Territory, to the east of the Mississippi, and this motive your Ex.cy say was to favour Spain. But on my part I cannot agree to this - France ceded this territory because she felt it her interest to do so, or was obliged to do so. but this is of no importance, for be the motive what it may, the cession cannot be considered less than an effectual, irrevocable, and perpetual alienation, with all the consequences which were to make W. Florida an English possession. Being so, Spain Co.d conquer, acquire, and receive it from England, having this original and just title to it, and this alone is all she requires to make it her property in every sense of the word, and as independant of Louisiana as it was in the hands of England.

It results from this that the contracting parties had no intention to include W. Florida in the treaty of St. Ildefonso: this is the more confirmed, if we recollect that France Co. not doit, nor Co. she stipulate for the acquisition of any territory, to the Eastward of the Mississippi, without the consent of the U. S., as she had obliged herself to this by an express Stipulation, contained in the 6.th Art: of her treaty with the U. S. which article says "Le roi très Chretien renonce à posséder jamais les Bermudes, ni aucune des parties du continent de l'amerique Septionale; qui avant le traité de Paris de 1763, ou en vertu de ce traité ont été reconnues appartenir à la couronne de la Grande Bretagne." It is to be seen from this that france Co. not if the U. S. did not consent when she had bound herself by this treaty, to acquire W. Florida, which by the treaty of 1763. belonged to the Crown of G. Britain. If in the treaty of St. Ildefonso, France had intended or proposed to acquire W. Florida, it is clear she Co. not do so without the consent of the U. S., and that this consent ought to precede all other Stipulations; on the contrary if France Sh.d have infringed the rights of the U. S. which can in no manner be supposed, it W.d not be reconn-

in the U. S. to give to the treaty of St. Ildefonso an interpretation from which it must result as a necessary consequence, that France had violated their treaty with the U. S. and that they founded their right to W. Florida, on this violation.

The opinion of the Astronomer & Geographer, Ellicot, which is so exactly conformable to the ideas I have just stated, and whose concluding expressions I transmitted you in my Letter of 6th. 24th. is of very great weight & consideration on this subject.

I do not suppose it as of St. Eg. No. a question for a Lawyer or Civilian; it is in its whole extent entirely, geographical; it only treats of the question, whether the territory, to the East of the Mississippi, at the time of the retrocession, was Louisiana or W. Florida. What person more proper to give his opinion on this subject than the one who has merited to be employed by the U. S., surveying the limits of the very territory, he treats about, it is dishonoring his talents, to say that he had not with him, the Maps both ancient and modern, of the said territory, and the most authentic documents respecting it, and using as he does the expressions I copied for y. Ex. in my Letter of the 24th Ult. after he knew of the acquisition of Louisiana, by the U. S., leaves no doubt that his love of truth and justice forced from him this sincere confession of the incontestible right of Spain to the territory of W. Florida.

But all further reflections are unnecessary upon this subject, when it is considered that the treaty of St. Ildefonso was a contract between France and Spain, and that of consequence on whatever point of it, however it might appear doubtful, you & the France and Spain agreed in their understanding and explanation of it. This uniformity of understanding has as much force as the most explicit and determinate stipulation, because no one can know as well as the contracting parties, what the one was to cede and the other to receive. The United States who have succeeded to the right of France, can have no other right to claim than that which France supposed she had. France has been and is now persuaded, that by the treaty of retro-

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if H.r Ex.cy Sh.d still consider this as insufficient proof, Will you permit me
to send you a copy of a declaration the most positive Which can be
imagined, in Which the Gov.t of France declares that it thought not of ac-
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of foreign Relations of France has written upon this subject on the 30.th
August last, to his Majesty's Ambassador in Paris, and in his letter are
the following remarkable expressions. "Les limites orientales de la
"Louisianne sont indiquées par le cours du Mississippi et ensuite par
"la riviere d'Iberville, le Lac d'Ontchartrin et le Lac Maurepas. Cette
"cette ligne de demarcation que détermine le territoire cédé par
"l'Espagne à la France en vertu du traité de 30.to Ventose. An 9.
"La France n'auroit rien demandé à l'Espagne au delà de cette
"limite; et comme elle n'a fait que substituer les Etats Unis aux
"droits qu'elle avoit acquis et ne pouvant pas exiger de l'Espagne
"une cession de territoire plus étendue, à moins que cette concession
"ne soit négociée et stipulée entre elle et l'Espagne par quelque
"convention ultérieure."

These expressions are so determinate & clear as not to permit me to make any further reflections on them, persuaded that the simply reading them is sufficient for the conviction that as France will not think of ceding, nor France of acquiring W. Florida by the treaty of St. Ildefonso. it is clear that the U. S. who have succeeded to the rights of France, will not acquire that which She supposed did not belong to her, and which She has declared She did not acquire, nor thinks of acquiring. This point appears to me so little susceptible of doubt after what I have said, and had the honor to say to Your Ex.cy in my

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note of the 24th Ult. to whose contents I again refer you, Persuaded confident, the justice & rectitude established good faith of the U. S. will acknowledge, that they cannot found any right to W. Florida, from the treaty of St. Ildefonso.

In concluding this Letter, I cannot but declare my satisfaction, to Yr. Ex.cy, that I see by yours of the 8th you are persuaded of my unalterable sentiments of respect and consideration for the U. S., and also of my constant disposition & wish to please, Yr. Ex.cy which I now have the honor again to renew &c &c. —

Signed Pedro Cevallos.

Extract from a Letter addressed to Mr. Monroe & Mr. Pinkney by Mr. Cevallos. Dated, Aranjuez April 13th 1805.

The western limits of Louisiana never having been fixed in the exact manner which can be done in territories sufficiently peopled and of small extent, it ought necessarily at the time of fixing them, to be the object of a negociation, in which both parties sh.d be agreed as to the principal basis, and by a commission of limits wh.h sh.d regulate themselves by those basis's in fixing the demarcation. The principle which ought to serve as a rule for the establishment of the said basis cannot be any other than the knowledge of the possession which each party had acquired in these territories, and the different establishments made by each in the said places; by the Spaniards in the Province of New Spain & also those belonging to Louisiana, drawing a line which shall divide the one from the other side, and continuing it by the most natural points of demarkation possible.

It results from this principle that the examination into the above named limits, is in a great degree historical, as it treats of the fixing the origin of many Spanish establishments, & the interior provinces of the french establishment of Louisiana.

If it had been proper to enter into a detailed

examination at present, I will make a succint historical detail of the Spanish establishments in the interior Provinces of New Spain; but not to molest Y.E.s with details that may be inconvenient at present I will confine myself to saying something on the province of Texas bounding on Louisiana, upon the demarkation of which depends the present questions. The Province of Texas where the Spaniards have had settlem.ts from y.e 17.th century, bounds by the East with Louisiana, and contains the extensive country which lies between the river Medina where ends the gov.t of Coahuila to the West, now abandoned, of Nuestra Señora del Pilar of the adaes w.ch is distant a few leagues from the post of Nachitoches, 20 leagues from the Missions of Ais 40 from that of Nacogdoches 150 from the abandoned post of Orcoquisac 200 from the Bay of Espiritu Santo and 40 from the post St. Antonio de Bejar.

It is beyond all doubt that in the year 1689 by a commission from the vicenoy of Mexico, the Marquis de Monclova, Capt. Alonso de Leon who was then Gov.r of the province of Coahuila, went to examine the Bay of Espiritu Santo and the river St. Marcos which empties into it, to whom the Indians Chief of Texas presented himself in the most friendly manner, and in 1690 he took possession of the territory and founded the mission of St. Francisco of Texas.

By a royal order of his C. Majesty Nov.r 12.th 1692 they ordered new discovries to be made in the said province by land and sea, which was in consequence then executed, and among other things they undertook the examination of the river Colorado. Twenty two years after the Duke of Linnares being then vicenoy of Mexico introduced from Louisiana as far as the Spanish post of St. Juan Baptiste a Frenchman Lewis St. Denis and other three frenchmen from Louisiana with passports from the Governor of Louisiana to buy cattle in the Spanish Missions of Texas: which Frenchmen were carried to Mexico, and there the fourth expedition was resolved upon to Texas, naming as chief of it the Alferes D.n Domingo Ramon. The expedition was received with ineexpressible friendship by the Indians

and the Captain Ramon named chief of the said Indian Nations, and also Son to the Governor of Texas, and he left them founded the four Establishments and Mission of St. Francis, La Purissima conception, St. Joseph and Puesta Senna de Guadalupe, situated seven leagues from Natchitoches. By the royal order in 1719 they made various alterations in the command of the Spaniards employed in the Province of Texas and a little after died the S.d Capt. Ramon in the post of St. Juan de Baptista on the river Granda. War having broke out between Spain & France, during the Regency of the Duke of Orleans, the French attacked the Spanish Mission of Adaes, and its inhabitants were transported for the moment to the post of St. Antonio de Bejar. But the Viceroy of New Spain, the Marquis de Valero, accepted the generous and honorable proposal which the Marquis St. Michael de Aguayo made offering this pursed person to dislodge the French of what they had unjustly seized and occupied; and to make war upon them. On being named Governor General of the new Philippines or province of Texas, and of New Estramadura. The Marquis of Aguayo raised 500 Dragoons & two companies of Cavalry, & undertook his march for the province of Texas in 1719, and without opposition arrived at the Adaes. The French having returned to the post Natchitoches. The King of Spain being informed of this expedition, and the recovery of the province of Texas, determined to fortify it, & that all hostilities should be suspended against the French.

The Marquis de Aguayo reestablished the other Missions and founded other establishments, among them the Posts of Puesta Senna del Pilar de los Adaes, that of Loreto on the Bay Spiritu Santo, that of Dolores, which is now known by the name of Orguisaw, and improved the situation of St. Antonio de Bejar by placing the establishments between the rivers of St. Antonio & St. Pedro.

The province of Texas being thus at peace and reestablished & increased, the Marquis of Aguago solicited the reunion there of 200 Tlascolan families, and as many from Galicia in Spain or the Canaries, and with some of these families, the King having agreed that 400 families sh.d go from the Canaries they peopled the village of St. Fernando close to the post of Bejar.

At the end of the year 1730. the Spaniards undertook several expeditions from the post of Bejar towards the North of the said province, on account of a disagreement with the Indians

In 1730 the Indians made an attack from the northern part on the post of St. Saba, and killed some Soldiers and Priests, on wh.h account a detachment was ordered against the said Indians under the command of Colonel D.n Diego Ortiz de Parilla.

A little after it was determined to organize a general & uniform establishment of posts to cover the interior Provinces of New Spain, and they ultimately gave a commission to the Marquis de Rubi to go and view it & examine their State; and the result of this commission, which it appeared lasted some years was that on the 10.th Sept. 1772 the regulation of posts and so extended itself as to establish a cordon of them from the coast of Sonora to the Bay of Mexico where was situated the Bay of Spiritu Santo, there being there in the province of Texas those of St. Antonio de Bejar, and that of the Bay of Spiritu Santo, having neglected that of Orpinsa & that of Nuestra Senora de los Adaes, which were no longer useful as Spain was then the mistress of Louisiana.

From this simple and short explanation of those notorious and authentic, to prove the truth of wh.h we find the most unanswerable documents, supported by uninterrupted possession, results evidently the ancient and exclusive right which the Spaniards have to the province of Texas: that the possession of the province of Texas was acknowledged and respected by the French while they possessed Louisiana, and that the said province is belonging to, and has always belonged to his Majesty.

That claim

Insist

must be extremely illusory, and unfounded which shall attempt to carry the western limits of Louisiana to the Rio Bravo, including therein a great part of the interior provinces of New Spain, acquired and established at the cost of the treasures of Spain and the blood of her subjects, as has been proved to demonstration in the case of Texas, and can be strengthened more & more by a continued series of events and proofs relative to the said province of Texas, and others of the interior provinces of New Spain, and also the acts & dates now existing respecting this subject. There are also many dispatches, Maps and Documents respecting this question to be found in the Secretaryship of Mexico, which is the principle center of authority for all these Provinces.

On my part I have read with the greatest attention the Memoir on the limits of Louisiana, W.ch y.r Ex.cy inclosed me in y.r Note of the 28.th Jan.y anxious to see if any things cd be found to support or give a color to the claim of the U. S. to carry their limits to the Rio Bravo. but the said Memoir goes principally to treat of the establishment of Louisiana. I only find that y.r Ex.cy support the claim 1.st in a gratuitous supposition that the coast belonged to France: a supposition W.ch is contradicted by the most positive acts and dates abovementioned, by 2.d it is proved that the province of Texas and its coast are belonging to the dominions of his Majesty - and in the 2.d place in the general terms of the patent granted by Louis the 14.th in Sept.r 1712, in favor of M.r Antony Crozat, granting him the exclusive commerce of the country of Louisiana, whose extent was, as y.r Ex.cy understand it, with all the waters which directly or indirectly discharge themselves into the Mississippi and the countries which they water. It w.d be very easy to make it appear that the most exaggerated claims of France never had the extent which y.r Ex.cy wish to give to Louisiana on this side, but even if they sh.d have had such claims, or France

Sh.d positively have tried to include, under the name of Louisiana, the territories which his C. Majesty possessed; what right or claim c.d be founded in a document which Spain never has recognized, nor does recognize, and which never c.d prejudice in any manner her acquired rights? the answer of Spain on this occasion, is as simple as just, that if Louis the 14.th or the Government of France exceeded its power in granting territories or rights over territories which were not their own, or that Spain claimed possession of or property in, that the grant or right to be considered as null, as far as it extended over those territories, and that it proved, without doubt, from the total ignorance which prevailed in those days with respect to the Geography of the territories situated at a little distance to the West of the Mississippi, and of the establishments of the Spaniards in those parts, more ancient, and proved by repeated acts of possession, than the aforesaid Patent of Louis the 14.th is the royal order of the 12.th November 1692 already cited, by which his C. Majesty ordered them to make new expeditions to the Texas, and the same are the other authentic acts & establishments of the Spaniards in that quarter.

The limits between Louisiana and the Texas have been always known, even when the French possessed Louisiana. Near the beginning of the last Century, the venerable Margaret of the order of St. Francisco founded in the province of Texas, towards the confines of Louisiana, different Missions, among them that of Nacogdoches; and a few years after he wrote, and it was generally known in the writings of those times, that the province of Texas or new Philippines had its boundaries about the middle of the Gulf of Mexico to Panuco. The Rio Grande to the West and to the east Louisiana. Depending on Louisiana, we find upon the river Colorado which discharges into the Mississippi, the post of Natchitoches which the French took from Spain; But at seven leagues from this you find the aforementioned post of Nuestra Señora de los Adaes belonging to the province of Texas.

and

and it is undoubtedly that the Baron de Riperda being Gov.r General of this province, and successor of Dn. Angel de Manos, appeares to have made treaties and conventions with the Indians of the same province of Texas, stipulating that the Spaniards might make among them such establishm.ts as they pleased, acknowledging from that time as depending on the province of Texas the Indians Ayses, Nacogdoches, Asinaes, Nabedaches, Veidais, orquises, Malayes, Nouanes, Cinca Ques y Apaches. To the year 1770 there always was in the Post of the Adaes, from the time of its establishm.t, a competent number of Spanish Soldiers, and the same in that of orquisaco & St. Saba, and it was not until the year 1773 that the Lieutenant Dn. Jose Gonsalez evacuated the post of Adaes whose garison was no longer necessary, as Spain possessed Louisiana.

It follows therefore that the boundary between the province of Texas and Louisiana, ought to be by a line which beginning at the Gulf of Mexico between the rivers Carcent or Carcasieu and the Arroyo or Marmentoa, St.? go to the North, passing between the Adaes and Natchitoches until it cuts the Red river; and as from this point the limits which ought to be established on the northern side are doubtful and little known, it appears indispensible to refer them to the prudent investigation of Commissioners to be named by both parties, in order that they viewing the territory, and having with them the documents & Notes that will be given them, rectifying what ought to be rectified and furnishing the necessary lights to both Govts. upon limits which have never been fixed or determined with exactness, may thus enable them to fix the demarkation completely conformable to the wishes of Both.

With these ideas the Government of Spain ever

since it had definitively fixed the retrocession of Louisiana to France, named a Commissioner of limits, destined to complete this important object jointly with the Commissioners France might think proper to name on her part. In the same manner
It appears to me indispensable to do now, if the demarkation is to be made with the necessary exactness, and that the U. S. naming on their part a commissioner of limits, they shd proceed by common accord, and make upon the territory, the investigation which may be necessary. It is more than a year that the Brigadier General the Marquis de Casa Calvo and yr Engineer Dn Josef Martinez have with a sufficient number of persons to form the said commission, on the part of his C. Majesty, been waiting in N. Orleans the arrival of the Commissioners of the U. S. to begin their labours.

It is only after the researches and investigations of the Commissioners of both parties, furnished with such instructions as may be proper, that we can pursue the exact demarkation of limits which never before having been fixed with the requisite exactness cannot now be determined upon with prudence, but upon a view of the territory and having present the dates & documents necessary to illustrate the subject.

Altho' upon this point of the western limits of Louisiana I shd have extended myself much more in detail and accompanied my illustration with Maps & Documents, My wish to answer yr Ex.cy on this point, with promptitude prevented me. I however reserve to myself the power of doing so hereafter, shd it be necessary.

I hope yr Ex.cy on viewing what has been urged on this point will please to state to me yr opinions upon the subject, & that you will acknowledge that as well in it, as in the whole course of the negociation, I have not deviated a jot from the principle proposed by yr Ex.cy in yr first letter of yr 28th Jan.y and adopted by me in that of yr 31st of the same month. "Each of the "points depending between the two Governments ought to be determined

"examined impartially and all motives of complaint & in-
"quietude considered & terminated amicably to the which &c &c"

As I had the honor to state to Gov.r Exc.y in my letter of the 5.th of March, and believe it indispensable to repeat here, on perusing the contents of Gov.r Exc.y letter of the 30.th March & 12.th April, I cannot but still consider it as premature to enter upon the forming of projects for a Convention of the whole, or upon the aggregate of the depending points, without analysing them first, at least to a certain point, and without fixing the rights of each hereby as far as possible: because as Gov.r Exc.y must know extremely well, before we can proceed to a convention on the whole, it is necessary to know as far as possible what are the rights & obligations of his Majesty, and what are the rights of the United States and their objections; which knowledge by right ought to be the foundation of the Negociation, it being clear that according to the extent which we believe the rights and obligations of the one and other party ought to be sought the convention upon the whole to be the more or less extensive.

I hope to have the honor of receiving Gov.r Exc.y answer on the points which is the object of this letter & reiterate to you the demonstrations &c &c

(signed) Pedro Cevallos

Extract from Mes.r Monroe & Pinckney's Letter to M.r Cevallos. (dated) Aranjuez April 21.st 1805.

In examining the question respecting the western limits of Louisiana we are to be governed by those facts & principles which w.d have been applicable to France had she never parted with the province. All the rights she had formerly possessed over it, were restored to her by the treaty of S.t Ildefonso, and by her transferred to the United States by that of Paris 1803.

To ascertain these it is necessary to go back to that epoch, when the river Mississippi with the waters which empty into it, and when the bay of St. Bernard, were first discovered. The boundary to the west was never traced, by an exact line of demarkation between that province and the possessions of Spain and in settling it at this Day, the same principles & facts must govern, as if it had been then made.

The facts which are material in the case are such as relate to the discovery and possession of the territory referred to, by the Subjects and under the authority of each Nation.

The principles are those which have been recognized by European powers in similar transactions and which of course ought to govern in the present one. It is by a correct view of the material facts, and a faithful application of these principles to them, that the rights of each Nation will be established in this Point, & thereby the boundary between them.

By the memorials which we had the honor to present to Gov. Ey on the 28th Jany last, the epoch of the discovery of the Mississippi and the waters which empty into it, and of the Bay of St. Bernard, and of the taking possession of the same, and of the country dependant thereon, is proved by documents which cannot be questioned. By these it is established in respect to the Mississippi its waters and dependant country, as low down the river as the Arkansas, by the Sieurs Jolliet & Marquette from Canada, as early as the year 1673. & to its mouth by the Father Hennepin in 1680, and by de la Salle & Tonti, who descended the river with 60 men to the ocean & named the country Louisiana in 1682: & in respect to the Bay of St. Bernard in 1685. This was done at those periods, in the name & under the authority of France, by acts which proclaimed her sovereignty over the whole country to other powers, in a manner the most publick & solemn, such as making settlements & building forts within it. Of these it is material to notice in the present enquiry two only

which

which were erected in the Bay of St. Bernard on the western side of the river Colorado, by M. de la Salle who conducted there from France with two hundred & forty persons, in 1685.

It was on the authority of the discovery thus made, and of the possession so taken, that Louis the 14th. granted to Anthony Crozat, by letters patent bearing date in 1712, the exclusive commerce of that country, in which he defines its boundary by declaring, that it comprehended all the Lands, Coasts & Islands which were situated on the Gulf of Mexico, between Carolina on the East, & that of New Mexico on the west, with all the Streams which empty into the ocean within those limits, and the interior country dependant on the same. Such are the facts on which the claim of France rested; such are those on which that of the U.S. now rests.

The principles which are applicable to the case are such as are dictated by reason, & have been adopted in practice by European powers, in the discoveries and acquisitions which they respectively made, in the new World. They are few, simple, intelligible, and at the same time founded in strict justice. The first of these is that when any European Nation takes possession of any extent of sea-coast, that possession is understood as extending into the interior country, to the sources of the rivers emptying within that coast, to all their branches and the country they cover, and to give it a right, in exclusion of all other Nations, to the same. Memoire de l'Amerique page 196. It is evident that some rule or principle must govern the rights of European powers, in regard to each other, in all such cases: and it is certain that none can be adopted, in those to which it applies, more reasonable or just than the present one. Many weighty considerations shew the propriety of it.

Nature seems to have destined a range of territory so described, for the same society; to have connected its

several parts together by the ties of a common interest, and to have detach'd them from others. If this principle is departed from it must be by detaching to such discovery and possession a more enlarged & connected scope of acquisition; but a slight attention to the subject will demonstrate the absurdity of either. The latter wd be to restrict the rights of an European power, who discovered & took possession of a new country, to the spot on which its troops or settlements rested: a doctrine which has been totally disclaimed by all the powers who made discoveries and acquired possessions in America. The other extreme wd be equally improper, that is, that the nation who made such a discovery, shd, in all cases, be entitled to the whole of the territory so discovered: In case of an Island, whose extent was seen, which might be soon sailed round, & possessed by a few posts, it may apply with justice, but in that of a Continent it wd be absolutely absurd. Accordingly, we find that this opposite extreme, has been equally disclaimed, and disavowed, by the doctrine and practice of European nations. The great Continent of America, North & South was never claimed or held by any one European Nation; nor was either portion of it. Their pretentions have been always bounded by more moderate and rational principles. The one laid down has obtained general assent.

This principle was completely established, in the controversy, which produced the war of 1755. G. Britain contended that she had a right, founded on the discovery and possession of such territory, to define its boundaries by given latitudes, in grants to individuals, reserving the sovereignty to herself from sea to sea. This pretention, on her part, was opposed by France and Spain, and it was finally abandoned by Great Britain in the treaty of 1763, wh established the Mississippi as the western boundary of her possessions. It was opposed by France & Spain on the principle here insisted on. Which of course gives to the right-

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highest possible sanction in the present case.

The second is that whenever the European Nation makes a discovery and takes possession of any portion of that Continent, and another afterwards does the same at some distance from it, where the boundary between them is not determined, by the principle above mentioned, that the middle distance becomes such of course. The Justice & propriety of this rule is too obvious to require illustration

A third rule is that whenever any European Nation has thus acquired a right to any portion of territory on that continent, that right can never be diminished or affected by any other powers, by virtue of purchases made, by grants or conquests of the Natives, within the limits thereof. It is believed that this principle has been admitted and acted on invariably since the discovery of America, in respect to their possessions there, by all the European powers. It is particularly illustrated by the Stipulations of their most important treaties concerning those possessions & the practice under them, to wit, the treaty of Utrecht in 1713. & that of Paris in 1763. In conformity with 10th Art: of the first mentioned treaty, the boundary between Canada & Louisiana on the one side, and the Hudson Bay & Northwestern companies on the other, was established by commissaries by a line to commence at a Cape or promontory on the Coast in 58°. 30'. north latitude, to run thence south westwardly to latitude 49°. north from the Equator, & along that line indefinitely, westward. Since that time no attempt has been made to extend the limits of Louisiana or Canada, to the north of that line, or of those companies to the South of it, by purchase, conquest or grants from the Indians. By the treaty of Paris of 1763, the boundary between the present U. S. and Florida and Louisiana was

established by a line to run thro' the middle of the Missisippi from its source to the river Iberville & thro' that river &c. to the Sea. Since that time no attempts have been made by those States since their independence, or by G. Britain before it, to extend their possessions Westward of that line, or of Spain to extend her Eastward of it, by virtue of such acquisitions made of the Indians.

These facts prove incontestibly that this principle is not only just in itself, but that it has been invariably observed, by all the powers holding possessions in America, in all questions to which it applies relative to those possessions.

The above are the principles which we presume are to govern in the present case. We will now proceed to apply these principles to the claims of the U. S. as founded on the facts above stated, relative to the discovery & possession of Louisiana by France, and to designate the limits, to which we presume they are justly entitled, by virtue thereof, in the quarter referred to.

On the authority of the principle first above stated it is evident, that, by the discovery & possession of the Missisippi, in its whole length, and the coast adjoining it, the United States are entitled to the whole country dependant on that river, the waters which empty into it, & their several branches, within the limits of that coast. The extent to which this wd. go it is not in our power to say; but the principle being clear, dependant on plain & simple facts, it wd. be easy to ascertain it. This equally evident by the application of the second principle, to the discovery made by Mr. de la Salle of the bay of St. Bernard, & his establishment there on the western side of the river Colorado. That the U. S. have a just right to a boundary founded on the middle distance, between that point and the then nearest Spanish Settlement, which it is understood was in the province of Panuco, unless that claim shd. be precluded on the principle first abovementioned. To what point that wd. carry us, it is equally out of our power to say, nor is it material, as the possession in the Bay of St. Bernard taken in connection with that on the Missi-

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Mississippi, has been always understood, as of right we presume it ought to extend to the Rio Bravo, on which we now insist. In support of this boundary we rely much on the grant of Louis the 14.th to Anthony Crozat in 1712. That grant, it is true, establishes no new rights to the territory. The right had already accrued by the causes, and to the extent already mentioned. The grant however asserts the right of France to the territory in the extent contended for. Which was never abandoned afterwards except by the treaty of 1763. which does not affect the present question. This boundary is also supported by the opinions of the best informed persons who have written on the subject, with which we have become acquainted. — By an extract of a work on Louisiana written by Col. Chevalier de Champigny in 1773, who being of the country was doubtless well informed, the Rio Bravo is laid down as the western boundary of that province page 10. This fact is again asserted with more minuteness in his second note to that work, in which he states that Louisiana was bounded before the treaty of 1763. to the west by the Mountains of New Mexico, and the Rio Bravo. In a book containing several memoirs on different subjects, published about three years since at Paris, is one entitled "a memoir historical & political on Louisiana by the Count de Vergennes Minister of Louis 16th. in which it is stated that Louisiana is bounded to the East by Florida & to the west by Mexico. The opinions of Geographers in general confirms that of other writers. By a chart of Louisiana published in 1762, by Dn. Thomas Lopez, geographer to his C. Majesty it appears that he considered the Rio Bravo as the boundary of the province: as it does by that of de Lisle of the Royal Academy of Sciences at Paris, which was revised and republished in 1782. Others might be quoted but it is useless to multiply them.

Having thus shewn the principles on which the United States found their claim to the Rio Bravo as the western boundary of Louisiana, we will proceed to examine the claim of Spain which is opposed to it, as presented by Gov. Ecg. in Gs. Estimd note of 4th. 13th. inst: we find by it that all the facts relied on in support of the claim of Spain relate to the province of Texas, the whole of which lies eastward of the Rio Bravo as we suppose within the limits of Louisiana. They amount to this, that at different epochs certain religious missions were established within that province, the first of which was in 1690. that in 1692 a royal order issued directing new discoveries to be made in it, under which the river Cadodaches was explored; that in 1714 Louis St. Denis a frenchman made a visit to Mexico, on some commercial projects passing by the Spanish post St. John the baptist on the Rio Bravo, at which time Dn. Diego Ramon was sent into the province of Texas where he was well received by the Indians, among whom he then founded several religious missions, one of them at a post within seven leagues of the Natchitoches that treaties were afterwards made with some tribes of Indians who acknowledged their dependance on Spain that during the regency of the Duke of Orleans hostilities took place between the French & Spaniards in which the former attacked the latter at Pensacola & broke up the establishment for a time. that in 1730 the situation of the post St. Anthonio de Bejar was imposed by the Marquis de Aguayo who settled a certain number of families in its neighbourhood. that in 1758 hostilities took place with the Indians who attacked the the post of St. Saba & killed some soldiers & Priests, in consequence of which a detachment was sent against them under the command of Dn. Diego Ortez Parilla. that after this the Marquis de Rubi was imposered to organize a system of defence for the provinces of New Spain, which was completed in the year 1772. These we believe are all the facts stated by Gs. Ecy, on which we think proper to make

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a few remarks.

It is evident, as every fact above stated was posterior even by many years, to the completion of the title on which the U. S. rely, that if the principles, by which they support that title, are sound, there is not the slightest foundation for the claim of Spain to rest on. Every act of Spain within the limits which it appears justly belonged to France, was an encroachment, which the friendly relations between the two powers might authorize, in a wilderness, but which could give no title; that those acts were considered by the French in the light of encroachments at the time they were made is proved by many facts & documents the most authentic. In respect to the Spanish post in the Neighbourhood of the Natchitoches, on which Gov. Es. seems chiefly to rely, we beg to refer you to Col Champigny's work - page 10 of his Notes, by which it is stated that the post which the Spaniards had established there was on the territory of the French; we refer you also to Du Pratz's history of Louisiana Vol-1 page 12, by which it appears that the Spaniards were introduced there, under the auspices of the French, by Louis S.t Dennis to favor a contraband trade with Mexico - as that the favorable reception given by the Indians to D.n Diego Ramon was owing to S.t Dennis who was recognised by them as their great chief; prior to which year it appears by the same Author, that there was not an establishment of any kind, East of the Rio Bravo, & only that of S.t John the Baptist on the western bank of it. But the most authentic & conclusive of all proofs of the light in which these acts of the Spaniards were viewed by the French is, that hostilities actually did take place between them respecting those posts: which history has recorded & Gov. Es. admitted.

Gov. Es. has noticed in his Statement, some concessions or acknowledgements made to the Spaniards by the Indians of their dependance on Spain; but these it is presumed Gov. conveys

to her no title to the sovereignty of the territory, against France. The third principle relied on above is conclusive to this effect. Within the known limits of Mexico, there is a vast tract of vacant territory to the North, held & inhabited by the Indians. If any other power was to treat with & receive similar acknowledgements of the Indians in that quarter W.d Spain admit the sovereignty of the territory was thereby transfered from her to such power? On this view of the subject, in which we have attempted to illustrate more in detail, but have added little to the contents of the memorial which we had the honor to present to Y.r Ex.cy on the 28.th of Jan.y last, we rest the title of the U. S. to the Rio Bravo as the western boundary of Louisiana. As every point has thus been fully discussed, we flatter ourselves that we shall now be honored with Y.r Ex.cys propositions for the arrangement of the whole business. The Country on both sides the Mississippi is yet a wilderness, & it is important to make those arrangements, which their mutual interests may require while it is so. As Y.r Ex.cy is possessed of the sentiments of our gov.t on every point, it is unnecessary to add more than to repeat, that on receiving Y.r Ex.cys propositions, we shall have every disposition to conciliate the views & interests of his Majesty's gov.t, which can be expected from the just & friendly policy of the U. S.

We beg Y.r Excellency to accept the assurances &c

Signed { Chas.s Pinckney / Jas Monroe

Propositions to the Secretary of State.

On condition that Spain will cede on her part the territory to the East of the Mississippi, & arbitrate her own spoliations conformably to the convention of last year the 11.th 1802.

The U. S. will cede on their part their claim to territory west of a line to be drawn from the mouth of the Colorado to its source,

and from thence to the Northern limits of Louisiana, in such manner as to avoid the different rivers & their branches wch empty into the Mississippi.

They will establish a territory of thirty Leagues on both sides of this line, which shall remain unsettled forever, or of thirty leagues on their own sides, if Spain desires to extend her settlements to the Colorado.

They will also relinquish their claim for French Spoliations, wch amounts to one hundred & sixty four Vessels, by undertaking to satisfy the parties themselves in a sum to be specified.

They will relinquish likewise their claim to compensation for the suppression of the deposit at New Orleans.

From the 1st October 1796, until the there were brought into the ports of his C. Majesty in Europe and Africa, by the French 168 Vessels

Of the above have been condemned	74
Acquitted, Ransomed or Compromised	23
Cases of violation of the Spanish Territory, condemned	13
Run Ashore and lost	1
Unaccounted for	7
Results not known	50
Total	168

A Statement of the facts relative to American Vessels taken by French Privateers, & condemned in Spanish Ports, obtained from the most Authentic Sources.

Of the french Spoliations there have been fifty appeals from the Consulate judgments in Spain to the Council of prizes at Paris, of which thirty have been released, nine condemned and twelve are yet depending. Not one sous has been paid in any case; nor is there a single case of such Spoliations on the list of

liquidations now at the french treasury, which are to participate of the twenty millions of livres to be paid by the U.S. to their citizens under the treaty of 1803 on account of french spoliations.

The American Minister never did demand payment of french Spoliations made in Spain, knowing them as such, nor did the american Agent ever demand it by his order or knowledge. The first intelligence which the american Govt. had of appeals being permitted from the french Consular tribunals in Spain to the Council of prizes in France, was received from Spain herself. As soon as it was received, the Secretary of State wrote to the American Minister in Paris, to know what the fact was, & instructed him at the same time to prohibit the Agent from acting in such cases, it having been at all times the opinion of the Govt. that Spain alone was answerable, of whom only has the recompense been demanded.

Taken by the Spaniards since the 1st October 1796 until the 104 Vessels & 4 Cargoes

Of the above have been condemned	29
Acquitted, ransomed or compromised	51
Disappeared, unaccounted for or depending	24
Total	104 & 4 Cargoes

To the Prince of Peace

Aranjuez May 12th 1805

Sir

The within is a copy of our last note to his Ex.cy Dr. Pedro Cevallos, on the subject of the western limits of Louisiana, which we are desirous y.r Ex.cy M.y peruse, since on the opinion which you may form on this and the other points, we are convinced will the decision of this question depend. We think y.r Ex.cy will see very distinctly, that the claim of our Gov.t to the Rio Bravo is founded on the clearest & most satisfactory evidence & principles.

We are inclined to suspect by what his Ex.cy Dr. D. Pedro Cevallos, Sec.y of State has just informed us, that y.r Ex.cy mis apprehended the proposition which we had the honor to make to you some days since. The proposition is composed of several conditions; on the one part, it is proposed that Spain shall cede her rights to the territory to the east of the Mississippi & arbitrate her own pretensions, in consideration whereof the U.S. will establish the Colorado as the boundary between the two countries, and make a certain district of territory neutral, & will also relinquish the claims on Spain for french spoliations, & the injury arising from the suppression of the deposit at N. Orleans. The proposition is conditional, one part dependant on the other; as Spain performing what is proposed on her part, the U. S. will do the same on theirs. But if Spain not consent to the whole arrangement, then the propositions which we had the honor to present to y.r Ex.cy, are to be considered as never having been made, as the paper shews, as we observed to y.r Ex.cy at the time. The propositions have been communicated to his Ex.cy Dr. Pedro Cevallos, yesterday Evening, & will be furnished him, with a note of Explanation in writing as he has desired, and as the conclu-

sion

Of the Business will depend on the answer now to be given to them, we hope Gov. Exc.y will have the goodness to use y.r influence to obtain for us an early one.

We request Gov.r Exc.y to accept the assurance

of &c &c

(signed) Chas. Pinckney
Jas Monroe

Letter from mr Bevalloa to Mr Pinckney of Nov.
Aranjuez May 15th 05

Sir

I have read with due attention your excellencies note of the 12th and the two propositions you have been pleased to make in the name of your Govt reduced to the following that shall cede the Floridas on her part and shall arrange the point of the claims of the individuals of both nations conformably to the convention of the 11th August 1802: and that on their part the U States would fix the river Colorado as the limit between Louisiana and the Spanish possessions in the form that the said note expresses and that they will abandon the claim arising from the damages occasioned by the French on the coasts and in the ports of Spain during the last war as also that for indemnification for damages occasioned by the suspension of the deposit at N Orleans

In reviewing these propositions I cannot refrain from saying to your Excellencies that I do not see in them any convenient terms for entering into the exchange or contract proposed: for altho' his majesty has the power to bargain for the Floridas as owner of them in the fullest extent and has also the right if he pleases to ratify the convention of 11th August 1802 which is suspended for the reasons your Excellencies know there are wanting equal right and power in the U States to make the cession your Excellencies mention. The U States having no right to demand of Spain compensation for damages occasioned by the French privateers as I have demonstrated in my notes on that point and to which I

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again refer Spain therefore could not receive from the U. States the renunciation of a right they have not and which she does not recognise as belonging to them The same may be said as to the claim for the suspension of the deposit at N. Orleans and as to the claim to fix the limit of Louisiana at the red brook from which claim flows the assertion that the fixing it at the Colorado is to be considered as a cession, it is equally necessary for me to observe to your Excellencies that the Spanish Govt has made it appear and is equally ready to shew more and more by the most irrefragable proof that the limit which seperates Louisiana and the Spanish possessions is a line which beginning in the gulf of Mexico between the rivers Caracut or carcase and the Armenta or marmentao ascends towards the north between the Adaes and Natchitoches untill it cuts the red River and as from this point they are doubtful and little known the limits which ought to be marked on the northern side appear to be proper subjects for reference to the prudent investigation of Commissioners of limits to be named by both parties who having the view of the territory and all the documents and dates which may be necessary before them rectifying what ought to be rectified and furnishing the light necessary to both Govts on limits which have never yet been fixed or determined with all the exactness necessary may be thus able to establish the demarkation completely to the satisfaction of both Govts.

In this view of the subject it cannot be concealed from the penetration of your Excellencies that as a consequence of the propositions you have made by your note of the 12th. Spain would cede to the

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U States not only the territories which indisputably be-
long to her to the east of the Mississippi that is the
two Floridas but also others equally her own in the
interior ~~part~~ province of New Spain without receiving anything
in return but the renunciation of a right which she
does not acknowledge in the U States which is to reclaim
for the damages arising from the suspension of the de-
posit at N Orleans and for those occasioned by the
french privateers on the coast and in the ports of Spain
during the late war when on the contrary Spain think
she has shewn that she is no manner liable for the
same.

The justice of the american Govt
will not permit it to insist on propositions so totally
to the disadvantage of Spain and however anxious
his Majesty may be to please the U States he can-
not on his part assent to them nor can he do less
than consider them as little conformable to the rights
of his Crown.

I renew to yr Excellencies the assu
Pedro Cevallos

an address to the King of Spain by Mr Monroe

Aranjuez May 22nd 1805

Sir

On my arrival here I had the honor to assure your majesty of the high consideration of my Govt for your majesty's person and Govt I then hoped to have had the honor to conclude the special mission with which I was charged in conjunction with the Minister Plenipotentiary near your majesty to the advantage and satisfaction of both parties: but being disappointed in this respect all our propositions which we deemed just being rejected and none other ever offered on the part of your majesty's Govt tho often invited, it is my duty to return to my station at London. We have transmitted the result to our Govt for its decision Under these circumstances I have thought it my duty, a duty which execute with pleasure, to take my leave of your majesty in the usual form and in so doing to assure your majesty of the high consideration of my Govt and of the pleasure it would have derived from an amicable adjustment on just and fair principles, of all the questions depending between the two nations, to accomplish which it has made so many friendly advances and exertions.

Letter from Mr Madison to Mr Munroe

Sir Dep.t of State May 23 1805.

I have duly received the several communications transmitted by Mr Pinckney and yourself, under dates of the first of march last. I have also received from Gen.l Armstrong copies ~~of~~ of his letters to you of the 12th & 18th of march. The passages in this last, in cypher, having not been copied into that used by this Department with Genl Armstrong remain locked up: but probably do not affect the general tenor of this letter.

From these communications it appears that France has arranged herself on the side of Spain in such a manner, that Spain will neither be disposed, nor be permitted to tend to our claims either with respect to west Florida, or the french spoliations. What part France may take in relation to the western boundary of Louisiana seems not to have been disclosed. From the silence on that point, in Talleyrand's note of 30 8.br in answer to yours in which the claim of the U States to the Rio Bravo is expressly asserted, and from the confidential acknowledgment of that boundary by M. Laussat to Gov.r Claiborne and Gen. Wilkinson, it might be expected, that on this important point France would side with us against Spain. Should this be the case it is hoped notwithstanding the unfavorable posture of the negotiation that there will be room to give it some such result as was contemplated. But there is so little reliance to be placed on the temper and views of France, as lately developed, that a failure of your efforts ought to be anticipated. The alternative presented by this event, is that of war, or a state of things guarding against war for the present, and leaving in vigor our claims to be hereafter effectuated. Against war, if to be safely and honorably avoided,

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the considerations are obvious and powerful. as it is a question which belongs to Congress not to the Executive, that consideration alone forbids any step on the part of the latter, which would commit the nation, and so far take from the Legislature the free exercise of its power. And it may be fairly presumed considering the daily increase of our faculties for a successful assertion of our rights by force, that neither the nation, nor its representatives would prefer an instant resort to arms to a state of things which would avoid it without hazarding our rights or our reputation. The two essential points in such a state of things are: 1st a forbearance on the part of Spain as well as of the U. States to augment their settlements, as to strengthen in any manner their military establishments within the controverted territory. Secondly Not to distract the free communication from our territories thro' the Mobille and other rivers emptying in the Gulph of Mexico or thro the Mobille at least.

In the first of these articles must be included a forbearance on the part of Spain to introduce slaves as well, as free persons not only, as in one sense augmenting her settlements, but as facilitating a clandestine introduction of them, already complained of into the territories of the U States. It can hardly be supposed, that Spain will object to this article even with such an explanation of it. And if the language of the Ministers of France here, be any test of the sentiments of his court it may be expected, that it will favor the arrangement. Gen Turreau has repeatedly and strongly declared, that until all questions concerning the boundary of Louisiana should be adjusted a Status quo was the natural and just policy to be observed.

The second article is perhaps not

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...verful. As it is a ...to the Executive, ...step on the part ...nation, and so far ...cise of its power. ...ering the daily ...ful assertion of our ...nor its represen- ...arms to a state ...t hazarding our ...ential fronts in ...rance on the part ...gment their set- ...ner their military ...territory. Secondly ...on from our ...rivers emptying ...nobille at least. ...es must be inclu- ...e to introduce ...r. as in one sense ...facilitating a ...already comprehended ...It can hardly ...tiate even with ...language of the ...of the sentiments ...will favor the ar- ...dly and strongly ...erning the bounda- ...States one was the ...ed. ...is perhaps not less

...ssl essential as a precaution for maintaining peace. Every moment of delay threatens collisions which lead to war. The necessity of that channel for the exports and imports of the increasing settlements on the river Mobille above the Florida limit, and for conveying our public stores to the military stations in that quarter, prove at once the reasonableness of the demand, and its close connection with the maintenance of peace. You will find by the inclosed correspondence between Gov^r Claiborne and the Marquis de Casa Calvo that the attention of the latter has been drawn to the subject, and that it will have been thence transmitted to the Spanish Gov^t. It is proper for you to know that the existing regulations of the U States permit the settlement of Baton Rouge on the Mississippi to navigate that river, with the exceptions only as to the introduction of slaves and armed vessels, exceptions having reference to the very objects now in question.

I forbear to repeat the grounds on which the right of the United States to the navigation of those streams is placed. They are already in the archives of the Legation at Madrid. More effect however, is to be expected from the necessity which a refusal of the navigation will impose on the U States to enforce their claims, than from any appeals to the reasonings which support it, and this necessity must be permitted to impress itself fully on the Spanish councils. The influence which France will have in this instance, as in all others, will make it worth while to learn the doctrine she has maintained with respect to waters flowing thro' different jurisdictions. It is pretty certain that she has been led to assert ours in relation to the Scheld, and probably to the Rhine and perhaps other rivers.

The silence of your communications with respect to the instruction in my letter of July 8^th 1802 to make

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the subject of the present a part of your first conference with the Spanish Govt, leaves it uncertain what particular disposition may have been manifested and whether any orders such as were required have been transmitted. The inference that we draw is that you were either induced to decline proposing them or that the requisition did not succeed. Whatever may have been the case you will consider it as a charge from the President in the event presupposed of a failure in your general negotiations to pursue without delay the ~~course~~ course herein prescribed: should you fail in this also you will lose no time in transmitting the result, taking care not to commit the Govt of the U States in any respect nor to alarm Spain into hostilities or preparations further, than may be inevitable. Should you succeed in what is here proposed, you will in that case also give the earliest notice without ~~the~~ precluding the U States from any course not inconsistent with the arrangement formed, and leaving the Spanish Govt under the impression, that the arrangement will probably guarantee a continuance of peace.

In the instructions of Oct. 26 1804. it was left discretionary to accept a ratification of the convention of augt 1802 or to incorporate it with the general one committed to your negotiations with an intimation, that it might be best to do the latter, in case but little delay in giving effect to the convention of 1802 should be thereby incurred. The delay actually incurred must have led you to take the first course, if left to your option by Spain. From the spirit however of Mr Cevallos' observations in his letter of there is still probability, that a ratification would be given unshackled by conditions, which you were instructed to reject. It only remains therefore to observe to you that those conditions continue to be rejected by the President, as absolutely inadmissible. The ratification

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as already signified to you is not to be accepted with any condition or qualification whatever, beyond such an arrangement, as is explained in the letter of ~~August~~ the 15th October 1804. of which an extract is repeated / from the department of State to the marquis de Yrujo for affording a moderate time to Spanish subjects to produce their claims. If a ratification thus unshackled, be within your option, the President deems it proper, that you should accept and transmit it, altho' none of the other objects committed to you should ~~be~~ have been attained. Besides the pledge which a partial accommodation may prove for a more comprehensive adjustment, it is to be considered that the provision therein made for a considerable portion of our citizens, who are claimants, ~~are~~ due both to their interests, and to the sanction given to it by the Senate; and that the manner in which the VI article describes the suspended claims is favorable to the principle on which they are founded.

This letter will be so addressed that it may be opened by mr Bowdoin in case of your departure previous to his arrival or by mr Irving in case of his reaching Madrid before mr Bowdoin and either of these Gentlemen is hereby authorized in pursuance of the instructions here given relative to the convention of August 1802 to arrange and accept its ratification.

I have &c. James Madison.

James monroe Esq &c &c –

Extract of a letter from the Secretary of State to the marquis de Yrujo. dated 15th October 1804.

With respect to the enlargement of the time for the assembling of the Commissioners, which can be done without any remodification of the convention the President's respect for the wishes of his catholic Majesty.

Majesty will not permit him to refuse his concurrence. although he does not himself perceive the necessity or advantage of it. The Commissioners who may be appointed on the part of the U States will accordingly be appriced that their proceedings are not to be commenced till the month of May next unless a further enquiry shall satisfy his Catholic Majesty that an earlier day will not be inconvenient.

Letter from Gov^r Claiborne to the Marquis de Casa Calvo

Sir

New Orleans 28th March 1805

Desirous of sending some military stores to the Garrison of fort Stoddert on the Tombigbee river. and a few goods to the U States factory at Fort St Stephens & have freighted for that purpose the ~~Schooner~~ Sloop Castor Capt Cooper

This vessel is engaged solely on account of the U States and your Excellency will much oblige me if you would take such measures as may ensure to such vessel a free and unmolested passage by the port mobille in going and returning

I have the honor to be &c

William C C Claiborne

The Marquis de Calvo in answer to Gov^r Claiborne

The effects yr Ex^cy wishes to send to the Fort Stoddert by the Schooner Castor Capt. Cooper are of such a nature as cannot I think oppose in the least those acts of civility which ought to take place between contiguous powers. and altho' I am not certain that the Gov^r Don Vincent Folch Gov^r of West Florida be directed by the King's order to receive a duty which may be either imported or exported by the mobille

to

to and from the American territory of Tombigbee and St Stephens I have taken on myself to request his granting a free Passage to the above mentioned vessel sending notice thereof to the Court in order that the King's approbation may be obtained requesting that in case it shall hereafter be found necessary he would cause the amount of such duties or importations to be which the said (vessel) schooner may be liable to be ascertained since the present is more a suspension of the payment which is to be made in case his Majesty shall not accede to the liberty now granted

I have the
Marquis of Casa Calvo.

his concurrence. al-
necessity or advantage
appointed on the part
provided that their pro-
till the month of May
satisfy his Catholic
be inconvenient.

De Casa Calvo
the Marquis
Orleans 28th March 1805
the military stores to
Tombigbee river. and
Fort St Stephens &
Sloop Lastor

ged solely on account
will much oblige
ces as may ensure
sted passage by the
honor to be &c
im D. Claiborne
to Govr Claiborne
es to send to the Fort
proper are of such
in the least more
space between on
certain that the
West Florida be di-
ve a duty which
by the mobile
to

Must be relevant to James Bowdoin's

Ministery to Spain 1805 - 1808

James was brother of Elizabeth, Lady Temple.

and whose great, great nephews George A.A. and James Sullivan changed their name to Bowdoin to inherit his money -

George A.A. (Sullivan) Bowdoin was great grand-father of Irving Bowdoin Ringsford.

Boudoin 's

1808

, Lady Temple.

George A. D. and
name to Boudoin

. was great grand-
ngsford.

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Examined by Princeton Library June 1958.

they termed it "interesting because contemporaneous" but doubt if it contains any new material. would be handy for scholars because all in one book -

Suggested Bowdoin College, Maine - would be interested - but I say: we are too —

L.H.K -

(thanks to I.B.K. JR.)

June 1958.

e contemporaneous"

material.

e all in one

aine - would be

are too —

H.K -